ORIGINAL

NO. 20-5045

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SUPREME COURT U.S.

IN THE
UNITED STATES SUPREME COURT
OCTOBER TERM, 2020

IN RE: DANIEL H. JONES,
Petitioner

PETITION FOR AN EXTRAORDINARY WRIT TO THE KNOXVILLE COURT OF APPEALS FOR THE EASTERN DIVISION AT KNOXVILLE, TENNESSEE

E2017-02026-CCA-R3-CO*

Petitioner, Daniel H. Jones, pro se, respectfully prays that an Extraordinary writ issue, "specifically", a petition for Writ of Prohibition, or, one of Mandamus, or both in the alternative issue where no other remedy remains to achieve the relief sought from an Order to review the judgment and Order tendered in the Knoxville, Tennessee Court of Appeals on August 2,2018.

Daniel H. Jones, #443638, pro se
Turney Center Industrial Complex
1499 R.W. Moore Memorial Hwy.
Only, Tennessee. 37140-4050

**Highest State Court reviewing the merits of Petitioner's Appeal; Appendix ""B"[doc.3].*

QUESTIONS PRESENTED FOR REVIEW

I.

WOULD THE ISSUANCE OF A WRIT OF PROHIBITION AND/OR MANDAMUS BE JUSTIFIED WHERE THE PETITIONER'S CIRCUMSTANCES COULD AID THIS COURT IN SUPERVISING AN APPELLATE COURT'S JURISDICTION?

II.

WOULD THIS COURT BE JUSTIFIED GRANTING EITHER WRIT OF PROHIBITION OR MANDAMUS WHERE ADEQUATE RELIEF CANNOT BE OBTAINED IN ANY OTHER FORM OR FROM ANY OTHER COURT?

RESPONDENT PARTIES BY JOINER

Statement of Parties; S.Ct. R. 14.1(b);

For purpose of this action, the below listed parties shall be joined in cause by nature of their actions, as well as inactions while performing (or the failure to perform) their duties in their official capacities, and, under color of [state] law, being recognized as the real parties in interest, serving as the instruments to the petitioner's deprivations.

Therefore, shall be subjected to the penalties of prohibition and/or disciplinary actions by means of mandamus, 28 USC §1651, in performing their [judicial] acts or, the failure thereto, as so designated under 42 USC §1983; 18 USC §242, and, TCA §29-21-313(a) via Tenn.Const, Art. I, §17, all while performing their duties under color of ["State"] law----State of Tennessee, who are –

Robert H. Montgomery, Jr. (former) Judge
& James F. Goodwin, Jr. (current) Judge
Sullivan County Criminal/Circuit Court
2nd Judicial District
140 Blountville Bypass; P.O. Box 585
Blountville, Tennessee. 37617-0585
Norma McGee Ogle, James Curwood Witt, Jr.
and D. Kelly Thomas, Jr.Judges;
Knoxville Court of Criminal Appeals
Eastern Division: Supreme Court Bldg. R. 200
505 Main St. / P.O. Box 444
Knoxville, Tennessee.37901.
Harry S. Mattice, Jr. (Dist.Judge)
U.S. District Court – Eastern Division
U.S. Courthouse, Room 140
900 Georgia Avenue
Chattanooga, Tennessee.37402

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OPINIONS BELOW

Cases from federal courts;

[i.] The opinion of the United States Court of Appeals for the Sixth Circuit appears at Appendix" A" [doc.1], and is unpublished.

[ii.] The opinion of the United States District Court for the Eastern Division at Knoxville, Tennessee appears at Appendix "A" [doc.2], (Civil) and is unpublished.

[iii.] The opinion of the U.S. District Court – E.D. Tennessee (pursuant to 28 USC §2254) Writ of Habeas Corpus related to this petition is at Appendix "A" [doc.5] and is published at 2014[WL-415953].

Cases from state courts;

[i.] The opinion of the highest state court to review the merits appears at Appendix "B" [doc.3], to this petition and is published at 2018 [WL-368949; Tn.Crim.app].

JURISDICTION

Cases from federal courts;

Jurisdiction is conferred upon this court via 28 ***USC §1651(a)*** *to review by an Extraordinary Writ a final judgment rendered by the highest court of a state in which this case is of such imperative importance as to justify deviation from normal appellate practice and to require immediate determination in this court;* ***See 28 USC § 1254(1)), & §1651(a)*** *from which a decision may be had; petitioner will further submit that,*

i.] The date on which the U.S. Court of Appeals, for the Sixth Circuit decided his case was on January 17, 2019, and will appear at Appendix "A" [doc.1],

ii.] Motion for reconsideration was filed, however, was dismissed on February 1, 2019, and will appear at Appendix "A" [doc.3] to this petition.

iii.] Immediately thereafter, a petition for Rehearing En Banc was filed and denied by the U.S. Court of Appeals on February 13, 2019 and a copy of an Order denying said Rehearing appears at Appendix "A" [doc.4].

iv. A Petition for Writ of Certiorari was filed on April 18, 2019 with this U.S. Supreme Court, and docketed as No.18-8901. Thereafter, returned from the Clerk's office without consideration by this court.

v.] To date, no cross-appeals have been filed with respects to this appeal.

vI.] Jurisdiction shall be conferred upon this court via ***28 USC §1254(1) & 1651(a)),*** *to review on an Extraordinary Writ the judgment and orders in question.*

Cases from state courts;

vii] The date on which the highest state court decided my [criminal] case was October 10, 2018 and a copy of that decision was given w/o a written opinion; See Appendix "B" [doc.1] which appears at Appendix "B" [doc.2] to this petition.

viii.] Also, the Highest State Court hearing my appeal was in the [criminal] Court of Appeals, denying a formal request to transfer the appeal to the proper court of jurisdiction and venue. A copy of the Oder denying Transfer is at Appendix "B" [doc.4] to this petition.

ix] No petitions for Rehearing were filed with this Court of [criminal] Appeals and neither order for mandate issued in its Supreme Court.

x.] Petitioner's records will show that all issues have been exhausted in the U.S. District Court for the Eastern Division at Knoxville, Tennessee consistent with 28 USC §2254, and may be found in Appendix "A" [doc.5]

*xi.] In accordance with the provisions of **28 US §2403(a), (b)** and this Court's Rule 29.4(b) & (c), Petitioner has timely served the State Attorney General a copy of this petition with an appendix where gives rise to State and U.S. Constitutional issues of law.*

CONSTITUTIONAL PROVISIONS

The following provisions of the United States Constitution are involved; Const, Amends, V. VI, VIII. & XIV.The test of said provisions are attached in the initial writ of certiorari's appendix "E" (1-8).as follows --

AMENDMENTS

V.

No person shall be held to answer for a capital, or otherwise Infamous crime, unless on a presentment or indictment by a grand jury. . . nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb. Nor shall be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty, or property, without due process; [Emphasis, mine]

Vi

In all criminal prosecutions, the accused shall enjoy the right to A fair and speedy and public trial, by an impartial jury of th state And district wherein the crime shall have been committed, which District shall have been previously ascertained by law, and to be Informed of the nature of the accusation; to be confronted with th witnesses against him; to have compulsory process obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

VIII

Excessive bail shall not be required, nor excessive fines be imposed Nor cruel and unusual punishment inflicted.

XIV

All persons born or naturalized in the United States, and Subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall Make or enforce any law which shall abridge the privileges Or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property, without Due process of law; nor deny to any person within its jurisdiction The equal protection of the laws.

FEDERAL STATUTES & RULES INVOLVED

The following provisions of federal statutes are involved; ***42 USC § 1983 28 USC §1343(a) (3), 18 USC § 242, and F.R.Civ.P. 62(g) (1)****The test of said provisions are attached hereto as appendix "E" (1-9).as well as other state statutes and treaties relevant to this petition and made a part hereof.*

STATE CONSTITUTION INVOLVED

The following provisions of Tennessee Constitution are involved; ***Art. I, ·§ 1 7, Art. I, § 9 Art. II §1 and Art.II, §2 which holds,***

Art.i § 9

That in all criminal prosecutions, the Accused hath the right to be heard by Himself and his counsel, to demand the Nature and cause of the accusation against Him, and to have a copy thereof, to meet the Witnesses in his favor, and in prosecution By indictment or presentment, a speedy public Trial, by an impartial of the County in which The crime shall have been committed, and shall Not be compelled to give evidence against himself.

Art. I, § 17

That all courts shall be open, and every man, For an injury done him in his . . . person or Reputation , shall have remedy by due course Of law, and right and justice administered with-Out. . . denial or delay. Suits brought against the State in such manner and in such courts as the Legislature may by law direct.
[Emphasis, added]

Art.il, §1

The powers of the Government shall be divided Into three distinct departments; the Legislative, Executive, and Judicial.

Art.il, §2

No person or persons belonging to one of these departments shall exercise any of the powers properly belonging to either of the others, except in the cases herein directed or permitted.

STATEMENT OF THE PETITION

This Petitioner's Extraordinary Writ stems from a [state] tort-claim filed with the Sullivan County ["circuit"] Court, at Blountville, Tennessee, See Appendix "B" [doc 5], and subsequently dismissed from which an appeal was taken to the Knoxville, Tennessee Court of [criminal] Appeals; Appendix "B" [doc.3], however, prior to its review, requested by this petitioner to be "transferred" to its proper court – Appendix "B" [doc.4] but denied the right to do so.

Nonetheless, Petitioner did manage to exhaust his governmental tort liability action –GTLA – in the state's Supreme Court; still, denied per curium; See Appendix "B" [doc.2]. It was at this juncture the petitioner continued his action and appeal in the U.S. District Court consistent with 42 USC §1983 as a Civil Complaint; Appendix "A" [doc.2], where here as well his action was dismissed. From there, pursued an appeal to the U.S. Court of Appeals for the Sixth Circuit in Cincinnati, Ohio, which was "initially" dismissed by its Clerk; Appendix, "A" [doc.1, 3 & 4], until finally denied entirely without being filed, Appendix "A" doc.4

REASONS FOR GRANTING A WRIT OF PROHIBITION AND/OR MANDAMUS

Specifically, the petitioner having no other available course of action to address the lower courts "fatal-errors", i.e. ["illegal"] detention; Appendix "D" [doc.1], pursued each of his respondents, id. via a Governmental Tort Liability Action in an attempt to – if nothing more – overcome his sentence ("sentence only"), particularly where the petitioner's indicia reveals the trial court Judge's "encroachment" (i.e. respondent Montgomery & Goodwin) upon the former General Sessions Court Judge's decision in dismissing "all charges" lodged against this petitioner; See Appendix "C" [doc.1 & 2] with Appendix "D" [doc. 4 – 9].

With this display of evidence, its information clearly shows the two most "fatal-errors" illegally detaining this petitioner in custody to date, which are, 1.) An act of double jeopardy and 2.) Excessive punishment where not authorized by statute, which clearly as well as concisely stated at pp.17-19 of this petitioner's

"initial writ of certiorari" establishes a cause of action, ignoring the fact that double jeopardy had been committed by respondent Montgomery who deviated even further when sentencing the petitioner as a ***Class-A felon*** *where his offense(s) doesn't rise above the status of a* ***"B-felony."***

In fact, even being charged with a Class-B, C and D felony, petitioner's punishment, under Tennessee's (2007) Sentencing Reform Act – all tolled – and applied consecutively would not have garnered an aggregate sentence of thirty-one ("31") year's punishment at his maximum range of being a Class –B felony moreover, classified as a Range-I Standard Offender; See Appendix "D" [doc.10], to be served at 30%, otherwise and to this very day petitioner would be classified as a Class-A felon to a Range-II Multiple Offender status, being punished at a maximum of forty-years (40) to be served at 35% listing more than 2 to 4 prior felonies to have enhanced the primary punishment to this maximum term.

In this perspective, it is beyond doubt and unmistakably clear "how" both the trial and appellate courts [mis]interpreted the application of "This Act" See also Appendix "B" [doc.3 at p.2], which deviates from its liberal construction now justifying the need for reparations.

Therefore, to further amplify reasons for granting a Writ of Prohibition and/or Writ of Mandamus discipline is because, ***first,*** *each of the lower court's summary conclusions dismissing petitioner's appeals due to (presumably)having failed to state a cognizable claim for which relief may be granted that departs so far from the excepted and usual course of judicial proceedings, as well as to*

sanction such a departure, by a lower court; See Appendix "A"[doc.1], now requires this court's supervisory powers in reversing petitioner's appeals.

***Secondly**, where Congressional Acts allow the petitioner to pursue "State entities" for injunctive relief and the lower U.S.Court of Appeals' decision conflicting with other U.S. Court of Appeals, as well as this U.S. Supreme Court on the same issue of laws. **Thirdly**, where all U.S. and State Appellate Courts are vested with unlimited power in restoring the criminally accused to their right to be heard in [state] courts of proper jurisdiction and venue. See Appendix "B" [doc.4], which have need to be settled by "this Supreme Court" requiring the issuance of ----*

a.] Declaratory judgment, ex parte petitioner, for

b.] Injunctive Relief prohibiting the lower courts from exceeding their jurisdiction and authority, as well as to,

c.] Issue Mandamus compelling the lower courts in releasing the petitioner from an illegal-sentence (or, one that isn't authorized by statute), or, to perform this particular act in dismissing his indictments in their entirety, having retried this petitioner contrary to his fifth amendment right barring double jeaopary; See Appendix, "D" [doc.4], as well as to have encroached upon another court's jurisdiction in violation of the Separation of Powers Doctrine, id.in "retrying" petitioner's offenses without amending such indictments; Appendix "C", [doc.1&2]

***Fourthly,** to require the respondent parties listed herein to be subjected to any and all scheduled Hearings to the conclusion of these proceedings, requiring*

the petitioner's presence, to include mediation absolving want for monetary damages as prayed in his Governmental Tort Liability Action

Therefore, it is by reason of these "exceptional circumstances" the exercise of this Court's supervisory powers are warranted and remains to be resolved; Appendix "C" [doc.9-12"] via the state's only corrective means—the GTLA,;Appendix, "B" [doc.5] having no other form or court to obtain adequate Declaratory, Injunctive and Monetary. Relief.

Pursuant to S.Ct. Rules 20.1 & 26.8:

Petitioner's initial Appendices

"A"

"B"

"C"

Document

"D"

Appendices

ARGUMENT
I.

THE ISSUANCE OF A WRIT OF PROHIBITION AND/ OR MANDAMUS WOULD BE JUSTIFIED WHERE THE PETITIONER'S CIRCUMSTANCES COULD AID THIS COURT IN SUPERVISING AN APPELLATE COURT'S JURISDICTION.

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II.

THIS COURT WOULD BE JUSTIFIED GRANTING EITHER WRIT OF PROHIBITION OR MANDAMUS WHERE ADEQUATE RELIEF CANNOT BE OBTAINED IN ANY OTHER FORM OR FROM ANY OTHER COURT.

ARGUMENT

I.

THE ISSUANCE OF A WRIT OF PROHIBITION AND/OR MANDAMUS WOULD BE JUSTIFIED WHERE THE PETITIONER'S CIRCUMSTANCES COULD AID THIS COURT IN SUPERVISING AN APPELLATE COURT'S JURISDICTION.

Through a passage of time, Congressional Legislation has always provided ways and means for a Court to relax its standards in resolving the petitioner's sole objective, cf .Felkner v. Turpin, 116 S.Ct. 2353 (1996)

In Felkner, the court concluded that, the critical language of Art. III, §2, of the Constitution provides that, apart from several classes of cases specifically enumerated in this court's original jurisdiction, "[i]n all the other cases the Supreme Court shall have Appellate Jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make" ... particularly where regarding "any" of these petitioner's (Jones) former [criminal] appeals, there has been no second and/or successive appeal(s) sought driving this court of Appellate Jurisdiction in violation of Art. III, §2, having thoroughly, as

well as timely exhausting all state court remedies and clarified in this court; See Rose v. Lundy, 102 S.Ct. 11989, 455 U.S. 509; 71 L.Ed.2d. 379 (1982).

Considering other aspects to this court's discretionary powers and viewed consistent with Title 28 USC §1651(a), . . . the U.S. Supreme Court shall have the power to issue ["all"] writs, and in aid of "any" Appellate Jurisdiction See also In Re; Jessie McDonald, 109 S.Ct. 993(1989), where its been long ago established in this court, that paupers (e..g.Jones) are an important--- and valued --- part of the court's docket which to date, remains so, whose avenue flows through this court's Rule 46.3 in keeping to the spirit and letter of Rule 26.1-----"if not (as here) being abused". The McDonald Court has emphasized that extraordinary writs are, not surprisingly, "drastic and extraordinary remedies" to be reserved for "really" extraordinary causes in which appeal is clearly an inadequate remedy.

However, quite unlike McDonald's attempt(s), this petitioners (Jones,) attempt(s) were not only dismissed in this court on more than one occasion, but all such previous courts prior to a ***"before-the-fact disposition"*** *compatible with the individualized determination that §1915 contemplates, as following this Court's protocol under Rule 46.1.*

Next, where pertains to the petitioner's claims for relief, beginning with this initial defendant [Judge Montgomery,Jr.], a solid claim was forged when demonstrating a "discrepancy" in the proceedings, i.e., the sentencing method; Appendix "D" [doc. 1 & 10],clearly reflecting a sentence not authorized by statute which invokes a federal question of law - 28 USC §1343 (a)(3) - giving the lower

appellate courts their jurisdiction and intervention; Appendix "E" [doc. 5 & 7], and, as supported by record whose sole excuse denying petitioner's request is that he failed to fulfill financial-obligations prior to proceeding in the lower courts Appendix "A" [doc.1 &2], who is not entitled to be allowed to proceed in forma pauperis and of course, being contrary to allowing access and jurisdiction overcoming his injustices in the lower courts. Appendix"[doc.10] and Appendix "E"[doc.1-4].

.Accordingly, a decision may be disturbed by the [Appellate] Court via ***F.R.Civ.P. 62 (g)****(1), when district courts rely on clearly erroneous findings of fact, improperly applied the governing laws---or, used an erroneous legal standard, Welch v. Brown,551 Fed.App. 804[6CA 2014]. Therefore, to invoke a preliminary injunction, which is an extraordinary remedy that should be granted if the petitioner establishes that the circumstances clearly demand it, and in view of having satisfied the "gate-keeping standards" of both 28 USC §§ 2244 & 2254(b), cf. Sales v. Taylor, 2015 [WL-4487833;USDC, E.D.Tenn]; Rose supra, citing Leary, at 228 F.3d. at 739, allows this petitioner passage overcoming this court's rarity in granting writs of extraordinary nature; In Re: McDonald, supra.*

Added to this, to determine whether an injunction is appropriate, a [trial] court must consider 1.] Whether the (petitioner) has a strong likelihood of success on the merits, 2.) Whether the (petitioner) will suffer irreparable injury "without" the injunction, 3.) Whether the issuance of the injunction would cause substantial harm to others, and 4.) Whether the public interest would be served by issuance of the injunction . . . these considerations are "factors to be

balanced, not prerequisites that must be met", Washington v. Reno, 35 F.3d. 1093, 1099 [6th Cir. 1994].

Therefore, it is this petitioner's plea to be allowed passage and review in keeping to the spirit and letter of this court's Rule 20.1 and .3 where, in this instance, "no other form or court" remains for him to obtain adequate relief.

II.

THIS COURT WOULD BE JUSTIFIED GRANTING EITHER WRIT OF PROHIBITION OR MANDAMUS WHERE ADEQUATE RELIEF CANNOT BE OBTAINED IN ANY OTHER FORM OR FROM ANY OTHER COURT.

*Since initiating his GTLA with the Sullivan County Circuit Court, the petitioner proffered for review specifically two issues of law giving rise to a constitutional violation---**1.) Double jeopardy** and by encroaching upon the jurisdiction of another court in violation of the State of Tennessee's Constitution, Art.II, §2 safeguarding the Separation of Powers and 2.) **Cruel and excessive punishment**, both of which denied him a fair trial and justifiable punishment, now requiring this court's consideration for injunctive relief; Appendix "E" [doc.1-4] and where at this point of his proceedings he is unable to obtain relief in any other form and/or court. SEE. Grey v. Wilburn, 270 F.3d. 607 (8thCir..2001) with Hafer v. Melo, 502 U.S. 21, 25, 112 S.Ct.358, 116 L.Ed. 2d.301 (1997)*

Basically, its the petitioner's contention that the lower court committed an act of double jeopardy, See Appendix "C" [doc.1,2 & 5] encroaching upon the jurisdiction of another court, after having his indictments tried and dismissed in a

General Sessions Court, Appendix "D" [doc.4-7b], thereafter, proceeding to and tried in the Criminal Court "without" first amending the indictments. cf. State v. Larsen, 2013 [WL-118663; Tenn.Ct.App.], where in context, double jeopardy violations arise only when an individual is twice placed in jeopardy for the same offense.

Customarily, in Jury proceedings jeopardy attaches when the jury is sworn, and in non-jury proceedings (as here, preliminary hearings), jeopardy attaches when the first witness testifies, citing Crist v. Bretz,437 U.S. 28,35, 98 S.Ct. 2156,2160; 57 L.Ed.2d.24(1978). For only if that point has been reached (as here) does any subsequent prosecution of the accused bring the guarantee against double jeopardy even potentially into play, Crist at 437 U.S. 32,33, 98 S.Ct. at 215

Keeping in mind that the double jeopardy clause is binding on the states, ***See*** *Fransaw v. Lynaugh, 810 F.2d. 510 [CA 5, 1987]; through the fourteenth amendment to the U.S. Constitution, whose clauses covers both imprisonment and monetary penalties even though its text mentions only harm to* ***"life or limb".***

Secondly*, pursuant to and subsequent a piecemeal prosecution [Waiver of Plea] sentenced beyond his class of offense: Appendix "D" [doc.10], to a thirty one ("31") year term of punishment (collectively) as a "Class-B felon", is clearly in excess of that which is intended by legislation..... [otherwise this Appellant would be designated as a Class-A felon]....cf. McConnell v. State, 12 S.W.3d. 795(2000),where the "Sentencing Reform Act of 1989 (2007)" did not provide for*

"coupling" different incarceration and release eligibility "[R]anges" as indicated in Appellant's instance, as well as opposed by the courts, Appendix "B" [doc.3 p.2] Appendix "D"[doc.4a,5a,6a,& 7b].. ,In other words, legislation requires specifically only ***"one"*** *range of punishment; TCA §40-35-209, McConnell at 4.*

As stated in this Supreme Court, Preiser v. Rodriguez, 411 U.S. 475, 36 L.Ed.2d.433; 93 S.Ct. 1872 (1973), the question before this court is whether 'state' prisoners seeking such injunctive redress may obtain equitable relief under the ***Civil Rights Act.;*** *Appendix "E" [doc.5]. Even though the federal habeas corpus statute, i.e. §2254, clearly provides a specific remedy, the question is of considerable and practicable importance.*

For if a remedy under the civil rights act is available, a plaintiff need not first seek redress in a state forum. In Jones v.Caruso, 569 F.3d.258 [6CA 2009], it was established that an Appellate Court may hear Appellant's arguments on appeal, and, as made feasible via F.R.Civ.P. 62 (g) (1) having their powers to be ***unlimited****, particularly when the issue is one of law, and, further development of record is not necessary in considering the merits as long established and re-affirmed in other U.S. Circuits e.g. Grey, supra,where the Eleventh Amendment does not bar such relief; at pp. 5-6.*

Referencing an issue of "sovereign immunity", this forum, as well as other U.S. Circuits, Lewis v. Clarke, 137 S.Ct.1295; 2017[WL-14471611], establishes that, in the context of lawsuits against either state, or their entities, courts should look to whether the "sovereignty" is the real party in interest; here, the Appellant

argues otherwise, to determine whether sovereign immunity bars the suit, citing Hafer v. Melo, 502 U.S. 21, 25, 112 S.Ct.358, 116 L.Ed. 2d.301 (1997).

In aid of the Clark panel's reasoning, the Supreme Court in Hafer points out, that in making this assessment, courts may not simply rely on the characterizing of the parties to the complaint, but rather, must determine in the first instance whether the remedy sought is "truly" against the sovereignty, however, in the case sub judice; it is not, and neither has either of the former courts moved themselves to make this determination, i.e. if the state ***is the real party in interest****, then, it would be entitled to invoke the Eleventh Amendment's protection. Here, however, and by virtue of Tennessee's tort-laws [TCA §29-20-313],* ***it is not****.*

Similarly, lawsuits brought against employees – as such the Appellant's defendants are; See Appendix "C" [doc. 11 & 18] – being ***elected officials*** *in their "official capacities", such as judges may also be barred by sovereign immunity. Consider also the court's analysis in Kentucky v. Graham, 473 U.S. 159, 165-166, and 105 S.Ct. 3099, 87 L.Ed.114 (1985), While it may be intended that state prosecutors and judges enjoy the cloak of the Eleventh Amendment, as long ago provided in such courts as Imbler v. Pachtman, 96 S.Ct. 984, to reiterate, liability filed under §1983 does not leave this petitioner powerless to deter misconduct, or to punish that which occurs, because* ***even judges*** *cloaked with absolute immunity (civil)* ***could be punished "criminally"*** *for the willful deprivation of constitutional rights on the strength of Title 18 USC §242 --- the criminal analogue of Title 42 USC §1983.See appendix, "E" [doc.9].*

Therefore, taken in this light, and, to apply U.S.District Court Judge Caldwell's conclusion, See Martin v. Patterson, 2013 [WL-5574485; USDC, S.D.London, Ky.];who held, although the petitioner's §1983 claim must be dismissed in a civil complaint in the federal Courts, targeting state-officials however, the State Tort Action (as here) may proceed, particularly where under [state] legislation; See ["C9,13 &18"] the state, if viewed to be the real party in interest has waived its immunity; Tenn.Const., Art.I,§17.·§29-20-307-8.

Further, and to this extent, our "U.S. Sixth Circuit" has previously held, that where involves a [State] Tort, it's more appropriate to have it resolved in a State Circuit Court of proper Jurisdiction and venue. Coleman v. Governor of Michigan, 413 App'x 866, 8712 (6th Cir. 2011). For these reasons, the Appellant is requesting that this court now intervene where there has been a breach in judicial ethics –state and federal--infringing upon the petitioner's constitutional demands for declaratory, injunctive and monetary relief. id. (original) GTLA.

Conclusion

Wherefore, having now established the lower court's departure from the norms of Federalism, as well as this petitioner's entitlement to the relief herein requested, justice suggest that this court consider the issuance of an Extraordinary Writ, alternatively, a Writ of Prohibition and/or Mandamus, in light of the fact that this petitioner no longer retains a means to recover from the damage done by these defendants, Grey,supra.