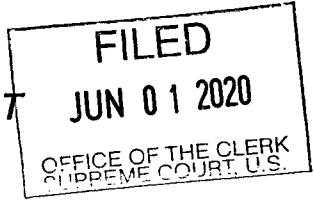


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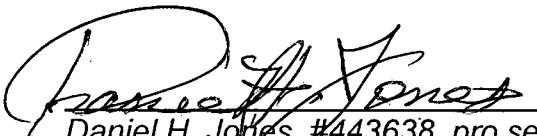
IN THE  
UNITED STATES SUPREME COURT  
OCTOBER TERM, 2020



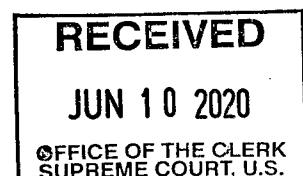
IN RE: DANIEL H. JONES,  
Petitioner

PETITION FOR AN EXTRAORDINARY WRIT TO THE  
UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT  
NO. 18-5601

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 United States District Court for the Eastern District of Kentucky, at London on May 30, 2018.

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

\*Highest Court reviewing the merits  
of Petitioner's Appeal; Appendix "A"[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 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 Appellant's injuries.*

*Therefore, shall be liable as entities of the State of Kentucky pursuant to KRS 49.060 & Ky. Const. § 231 who are –*

**KENT HENDRICKSON, Judge**  
**Harlan County Circuit Court**  
**Harlan County Justice Center**  
**26th Judicial District**  
**129 South 1st Street**  
**P.O. Box 190**  
**Harlan, Kentucky 40831**

**VENTERS, WRIGHT CUNNINGHAM**  
**and HUGHES, Judges;**  
**Kentucky Supreme Court**  
**Room 209, State Capitol**  
**700 Capital Ave.**  
**Frankfort, Kentucky 40601**

**ACREE and NICKEL, Judges**  
**Commonwealth of Kentucky**  
**Court of Criminal Appeals**  
**360 Democrat Drive**  
**Frankfort, Kentucky 40601**

**DANNY A. CASTLE, Detective**  
**Kentucky State Police, Post #10**  
**& LARRY AYERS, Examiner; KSP**  
**Crime Laboratory – Post #10**  
**Harlan, Kentucky. 40831**

*Each respondent's cloak of sovereignty or otherwise lesser immunities shall be waived by Acts of U.S. Congress, 42 USC §1983 as well as State Legislation; Kentucky Constitution, § 231.A and KRS 49.060.*

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### OPINIONS BELOW

#### Cases from federal courts

[i.] *The [initial] Opinion of the United States Court of Appeals for the Sixth Circuit appears at Appendix "A" [doc.3], and is not recommended for full text publication.*

[ii.] *The Opinion of the United States District Court for the Eastern Division at London, Kentucky appears at Appendix "A" [doc 1&.2], (Civil) and is unpublished.*

[iii.] *The Opinion of the U.S. Court of Appeals for Rehearing En Banc appears at Appendix "A" [doc.4] and is unpublished.*

[iv.] *The Order for Mandate in the U.S. 6CA will appear at Appendix "A" [doc.5] and is unpublished.*

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

vi.] *Petition for Writ of Certiorari was filed on May 13, 2019 as docket no. 18-9401, thereafter, denied on October 7, 2019 and is unpublished.*

vii.] *Petition for Rehearing was filed on October 5, 2019, thereafter, denied on November 18, 2019 and is also unpublished.*

**Cases from state courts;**

[i.] *The opinion of the highest state court to review the merits appears at Appendix "B" [doc.5] to this petition and is unpublished.*

[ii.] *The opinion denying motion for discretionary review in the Kentucky Supreme Court on March 15, 2018 will appear at Appendix "B" [doc.7] and, is unpublished.*

[iv.] *The order denying the petitioner's motion to proceed in forma pauperis on August 29, 2017 will appear at Appendix "B" [doc.3].*

[v.] *The order overruling motion to alter and/or amend judgment will appear at Appendix "B" [doc.3a].*

[vi.] *Order to Clerk to open and forward records on appeal will appear at Appendix" B" [doc.4].*

**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 3, 2019, and will appear at Appendix "A" [doc.3],

ii.] Motion for Rehearing En Banc was filed, however, dismissed on March 19, 2019, and will appear at Appendix "A" [doc.4] to this petition.

iii.] Immediately thereafter, a petition for A Petition for Writ of Certiorari was filed on May 13, 2019 with this U.S. Supreme Court, and docketed as No.18-5601. Thereafter, returned from the Clerk's office without consideration by this court.

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

v.] 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 [civil] case was March 15, 2018 and a copy of that decision were given w/o a written opinion; See Appendix "B" [doc.7] to this petition.

viii.] Also, the Highest State Court hearing my appeal was in the Kentucky Court of Appeals; Appendix "B" [doc. 5] to this petition.

ix] No petitions for Rehearing were filed with this Court of 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 London, Kentucky, consistent with 42 USC §1983, and may be found in Appendix "A" [doc. 1]

xi.] In accordance with the provisions of 28 US §240 (b) and this Court's Rule 29.4 (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 text of said provisions are attached in the initial writ's appendix "E" (17-19).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]

##### 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" (doc. 4-8), as well as other state statutes and treaties relevant to this petition and made a part hereof.*

#### **STATE CONSTITUTION INVOLVED**

*The following provisions of Kentucky Constitution are involved; §§ 115, 231, & 27, by analogy Tenn. Const, Art. II, §2 - which holds,*

*Ky. Const. § 115*

*In all cases, civil and criminal, there shall be allowed as a matter of right at least one appeal to another court, except that a Commonwealth may not appeal from a judgment of acquittal in a criminal case, other than for the purpose of law, and the General Assembly may prescribe that shall be no appeal from that portion of a judgment dissolving a marriage. Procedural Rules shall provide for an expeditious and inexpensive appeals. Appeals shall be upon the record and not by trial de nova.*

*Ky. Const., §213*

**Suits against the Commonwealth**

*The General Assembly may, by law, direct in what manner and in what courts suits may be brought against the Commonwealth.*

*Ky. Const., §27*

*The powers of the government of the Commonwealth of Kentucky shall be divided into three distinct departments and each of them be confined to a separate body of magistracy. To wit; those which are executive, to one; those which are Legislative, to another and those which are judicial to another.*

*Tenn. Const., Art.II, § 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 case herein directed or permitted.*

**KRS 49.060**

**LEGISLATIVE INTENT AS TO SOVEREIGN IMMUNITY IN NEGLIGENCE CLAIMS**

*It is the intent of the General Assembly to provide the means to enable a person negligently injured by the Commonwealth, any of its Cabinets, Departments, Bureaus or Agencies, or any of its officers, or employees while acting within the scope of their employment by the Commonwealth. . . to be able to assert their claims as herein provided. . . and in all other situations where sovereign immunities waived by statute.*

*[Emphasis, mine]*

### STATEMENT OF PETITION

Petitioner ("Jones") is an inmate housed in a Tennessee Correctional Facility, specifically, Turney Center Industrial Complex, located at 1499 R.W. Moore Memorial Hwy. Only, Tennessee 37140-4050, and, at the point of filing his Governmental Tort Liability Action – GTLA – with the Harlan County District and Circuit Court, which was summarily dismissed because of being an ""out-of-state-inmate". See Appendix "B" [doc.3]. Here, petitioner challenged the birth of a (currently) forty-five (45) year old conviction in the Harlan Circuit court in the month of June, 1975; See petitioner's Appendix, "B" [doc.4], being indicted for the offense of rape; KRS 435.090.

*In the outcome of a trial by jury the Appellant, in a verdict rendered in less than twenty (20) minutes, was found guilty and thereafter sentenced to a term of life without parole: Appendix, "B" [doc.5], upon which he served a debilitating twenty-two and one-half years punishment (retaining his claim of innocence) prior to having it "amended" to a twenty-year (20) term, where to date its stigma remains "illegally" under guise of Kentucky's Megan-Law, which was adopted in 1994; See Appendix D [doc.3] however, having no such stipulation by the Court's Agreed-Orders amending his sentence July 22, 1997 to be placed upon any such sex offender registry (S.O.R.) and plainly indicated here ["B-5"] having all parties to the agreement being "aware" of this at the time the Megan-Law came into effect.*

Clearly, as initiated in the Appellant's [State] GTLA, he seeks to be vindicated of an offense of rape, as well as to have his record expunged

preventing the State of Tennessee as well as “all other states” from encroaching upon Kentucky’s Decree, *id.* Appendix “B” [doc.5]; Appendix ““E” [doc.3-5”] with Appedix““C” [doc1 & 2], based upon material evidence that was omitted (by the Commonwealth) at his trial; Appendix““C” [doc.-1 & 2], and despite the petitioner’s trial counsel’s efforts to secure relevant evidence –via a Motion for Discovery – which inevitably served no purpose in “absence” of this crucial piece of evidence that was never retrieved from the Kentucky State Police Crime-lab [KSP-Lab] from joiner-defendant Ayres, See also [“C-2”] by prosecution’s agent, det. Danny A. Castle (joiner-defendant) leaving “this Commonwealth” liable for the injury incurred; \*Ky. Const., § 231: See also [“E-1”].

Because of these irreparable and tortuous injuries to this petitioner , both the State of Kentucky and Tennessee remains liable for recissory and prospective damages because of first, Kentucky’s failure to “honor” an agreed-order [“B-5”] Secondly, Tennessee’s “encroachment of that order” by restricting the Appellant to its S.O.R. [“D-2 & D-4”], and in particular, where Kentucky’s legislation did not require him to be placed at the point of his release from prison in July 22, 1997; See also KRS 17.510 (enacted1998) with [“D-3”], Kentucky’s Megan-Law [“B-6”].

Having received no Hearings, Conferences and/or terms for mediations between the parties in the “original” trial court, in order to resolve “real-issues” at law regarding declaratory and injunctive relief, as well as monetary compehsation for the damage done to his person as a direct result of the Commonwealth’s omission, therefore, petitioner appealed to Kentucky’s Court of Appeals, and

here as well, affirming the lower court's dismissal ["B-2"], then sought discretionary review in Kentucky's Supreme Court, and here too, summarily denied by each of the defendant-judges listed herein, ["B-1"].

Thereafter, and pursuant to the petitioner's suggestion for Rehearing En Banc ["A-4"], again, the same panel of three (3) Justices dismissed the appeal for the reasons stated therein, from which this application is now taken.

\* \* \* \*

---

\* *By reason of this charged offense petitioner and his fiancé lost their unborn child (through abortion) being fearful of his indefinite detention, as well as his prospective owner/operator occupation in the trucking industry as well as to be threatened currently with Tennessee's S.O.R.*

## AMPLIFIED REASONS FOR GRANTING THE WRIT

*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 "expunging" the petitioner's judgment and sentence predicated upon this extenuating circumstance See Appendix, "C" [doc.1 & 2 ], whereby the state of*

Tennessee has encroached upon another court's jurisdiction (Kentucky) in violation of the Separation of Powers Doctrine, [Appendix "E" [doc.5]

**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.1-2] 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.

### **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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## ARGUMENT

### 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.**

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**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.**

*From the outset and upon each level, a barrier has existed prohibiting the petitioner access to hear and appeal his action ignoring the fact that, through a passage of time, Congressional Legislation has always provided ways and means for a Court to relax its standards in resolving the Appellant's 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 Appellant's (Jones) former [criminal]*

appeals no second and/or successive appeal(s) have been 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 here the Appellant over a period of ten years has been allowed to file numerous petitions into this court and being recognized by 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 surprising - "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 Appellant's (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 well as prior to an agreement from "all parties" to the action in dismissing the case. Rule 46.1.

Next, where pertains to the Appellant's claims for relief, beginning with this initial defendant [Hendrickson, judge] a solid claim was forged when

demonstrating an “*actual controversy exist*” as illustrated by appendix “C” [doc.1 & 2], moreover, consistent with governing statutes which invokes a federal question of law - 28 USC §1343 (a)(3) - giving the lower Appellate Courts their jurisdiction and intervention [“A5-6”], as supported by record whose sole excuse denying Appellant’s request is that he failed to fulfill financial-obligations prior to proceeding in the lower courts [“A1 &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 “C”[doc.1] and Appendix”D” [doc.1-4], however, due *in main* as being a [non]resident of the state of Kentucky, Appendix”B” [doc.3] when and where the crime was committed in this state; See appendix “B” [doc.1].

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 Appellant establishes that the circumstances clearly demand it, and in view of having satisfied the “gate-keeping standards” allows this Appellant 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 (Appellant) has a strong likelihood of success on the merits, 2.) Whether the (Appellant) 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 [6<sup>th</sup> Cir. 1994].

Therefore, it is this Appellant'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.

## ARGUMENT

### 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 Harlan County Circuit Court, the Appellant proffered for review specifically two issues of law giving rise to a constitutional violation--1.) The Commonwealth's liability in withholding crucial-evidence exculpatory to the Appellant's defense, *id.*2.) The right to appeal his (civil) controversy, both of which denied him a fair trial and justifiable outcome, now requiring this court's consideration for injunctive relief,["E1-4"], 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 (8<sup>th</sup>Cir..2001) with Hafer v. Melo, 502 U.S. 21, 25, 112 S.Ct.358, 116 L.Ed. 2d.301 (1997)

Here and basically, its the Appellant's contention that the lower court committed an act of "gross-negligence" where in context, all such testing in this rape case "proved" that blood typing did not match, *cf. Hilliard v. Spalding*, 719 F.2d.1443 (1983). See specifically appendix "C" [doc.1], neither did defendant Castle return to retrieve such samples and prosecution being well aware of his omission.**Ky. Const. §231, KRS 49.060 [C-1]**

Keeping in mind that the "omission-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, *id.* covers both imprisonment and monetary-penalties even though its text mentions only harm to "life or limb".

Secondly, 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 it, is whether 'state' prisoners seeking such injunctive redress may obtain equitable relief under the Civil Rights Act. ["E4 & 8"]. Even though this act clearly provides a specific remedy 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 reaffirmed 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 Agencies/agents, 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 *supra*,

*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 Kentucky's tort-laws, KRS 418.040, KRS 446.070, KRS 49.060 as made feasible via Ky. Const. §231, it is not.*

Similarly, lawsuits brought against employees – as such the Appellant's defendants are ["E1 & 9"] – being **elected officials** in their "official capacities", such as "judge/prosecutors/agents" of the Commonwealth may also be barred by sovereign and/or lesser immunities. 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 entities such as these defendants 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 Appellant powerless to deter misconduct, or to punish that which occurs, because **even agents and judicial officials** 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, [“E11 & 16 ”].

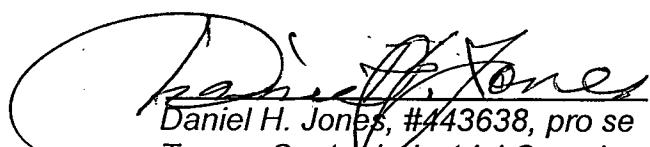
Therefore, taken in this light, and, to apply U.S.District Court Judge Caldwell's conclusion, See Martin v. Patterson, 2013 [WL-5574485; USDC, S.D.London, Ky.]; who held, although the petitioner's §1983 claim must be dismissed in a civil complaint in the federal Courts, targeting state-officials however, the State Tort Action (as here) may proceed, particularly where under [state] legislation; See Appendix "C" [doc. 9,13 &18] with Appendix "E" [doc.8 & 14] the state, if viewed to be the real party in interest has waived its immunity.

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 (6<sup>th</sup> 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 Appellant's constitutional demands.

## 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 in light of the fact that this petitioner no longer retains a means to recover from the "damage" done by these defendants; See Grey, Hafer, both *supra*, and, having been declared a "[non-resident]" of the State of Kentucky barring his access to be heard thereon, KRS 453.190; Appendix "B" [doc.3] were upon the crime was committed, Appendix "B" [doc.4], being the proper jurisdiction and venue; KRS 454.210(3) as well as the right to appeal his matter being consistent with §115, Ky. Constitution.

Respectfully submitted,

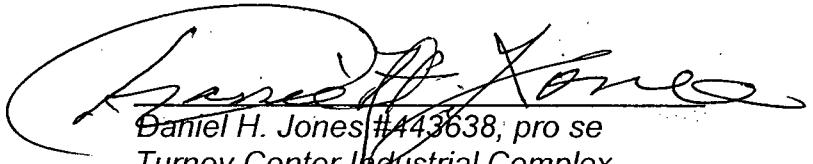


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CERTIFICATION

*This is to certify, that a true and correct copy of the petitioner's Extraordinary Writ was mailed this 26th day of September, 2020, to the Clerk of the United States Supreme Court, located at 1 First Street, N.E. Washington, D.C. 20543, by depositing it in the U.S. Mail, postage prepaid..*

*Respectfully submitted,*



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