

IN The united states supreme court

IN RE: **20-5112**

David Wayne Robinson
(Petitioner)

- VS -

Jared Polis, Governor, Individual And
official Capacity. et al
(Respondents)

CASE #s

U.S. Dist Ct. 18CV01453

C.O.A. 10th Cir. 19-1379

ORIGINAL

FILED

JUN 23 2020

OFFICE OF THE CLERK
SUPREME COURT, U.S.

Petition for Writ of Certiorari

[A]

Questions Presented

- ① Did Dist. Ct. ERR IN Dismissing / AND Appeals et Allowing The Forfeiture of Pro-se litigants claim CAUSED By Litigants LACK of Legal Skills?
- ② IS The ACTION of Separation of Powers To Authorize The TAKE INGS of monies for A fine Not Yet Imposed OR found Guilty of to Enforce A Payment Thereof NOT AN ISSUE, Not Applicable, To A claim Under 42 USCA § 1983?
- ③ Is monies taking from A People (s) for being found Guilty of A crime Before, They Are found Guilty, OR Before A fine is imposed, By AN Administrative Agency Without Due Process A frivolous claim Under 42 USCA 1983?
- ④ Does The District court Ruling Not to Appoint Counsel to AN Uneducated Pro-se litigant With A prima facie CASE, With Difficult issues THAT Would Reverse laws THAT would cost The STATE of COLORADO And Counties Therein Millions of Dollars And force The Return of Billions of Dollars Taking Without Due Process, AN ABUSE of Discretion?
- ⑤ Under The Due Process clause, Does it bar The Punishment of Pre-Trial Detainees
- ⑥ officials who Authorize A system To Deprive People (s) of Life, Liberty, or Property Intentionally, whether They intended OR Not, violate Due Process?

- ⑦ Is the fact of The Denver Sheriffs office TAKING monies without Being Adjudged from Citizens of The state enough Prima facie evidence sufficient enough To outweigh The Presumption of Innocence without being Rebutted by The Defendants?
- ⑧ CAN A state Diminish Rights of The people by /under The Name of Local Practice?
- ⑨ Under The Balancing test established by The Supreme Court in MATHews-V-ELDRIDGE 424 US 319 335, STATING Any booking fee CAN only be levied following Criminal Prosecution Because it is A Criminal fine And Therefore, Punishment. And IN Roehl-V- City of Naperville 857 F.Supp 2d 707, 717 (N.D. ILL 2012) & Allen-V-Leis 213 F.Supp 2d 832 - STATING "No Government Entity CAN Impose A Criminal fine based only on Probable Cause", Is not enough To show A Prima facie Evidence for A claim And Enough To Avoid Frivolous Ruling.
- ⑩ IN United States-V-BAJARJAN 524 US 321 324. The Supreme Court had To determine, under The 8th Amend. Excessive fines clause, whether forfeitures Are Fines That Are Punitive IN Nature, And The Court reminded The Government That The Excessive fines clause "limits The Governments Power To EXTRACT Payments whether IN CASH OR IN KIND, AS Punishment for some offense, And Thus This Ruling Does NOT Apply To STATE OF Colorado City And County of Denver, To Establish Proof for A claim?
- ⑪ When Criminal Justice Debt rises To punitive levels Does it Thereby Trigger The 6th Amendment Jury Trial Right which is Violation of Due Process if NOT Afforded?
- ⑫ Does The Due Process clauses secure To every citizen A Judicial Trial Before He CAN Be deprived of life liberty OR Property?
- ⑬ Is AN Individuals Private interest in his Property, Including money even for small Amounts Protected By The Federal And STATE Constitution, which Therefore The Duty of The Legislatures And Courts To protect?
- ⑭ All The Rulings And Arguments THAT is Presented on my claim WAS Ruled Perfunctory Argument And insufficient To invoke The Appellates Court Review. AN Abuse of Discretion?
- ⑮ This booking fee denies A Person from The OPPORTUNITY To Request A Bearden Hearing. BEARDEN-V-GEORGIA 461 US 660 668-69 672-73. Yes OR NO?
- ⑯ Does The TAKINGS clause encompass The Due process clause when Private Property is taken for Public Use without Just compensation And Therefore Applies To The states Through The 14th Amend?

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- ⑰ Did The Dist Ct And Appellate Ct. Err in Not Construing CONSTITUTIONAL Violations In Favor of its Citizens, And To Protect from Any Encroachment Thereon?
- ⑱ Did The Dist Ct. And Appellate Court err in Not Construing my Claim liberally AS A Pro-se litigant?
- ⑲ Did The Dist Ct And Appellate Ct. Err in Applying A strike for The claim brought in Dist. Ct. And Another strike for The Appeal of The Dist. Ct. Decision Towards The 3 STRIKE Rule?
- ⑳ Did The Dist Ct. And Appeals Ct Properly dismiss my case AS Frivolous And NOT Allow my Amended Complaint To be addressed even Though I had EXCUSEABLE Neglect / JUSTIFIABLE EXCUSE Due To LATE MAIL Delivered By D.O.C. And Being TRANSPORTED To Several Writs BACK To Jefferson ~~County~~ County Jail And Denver County Jail And Being moved Several Times To different Prisons.

B

NAME OF PARTIES

- ① John Hickenlooper, Governor, Individual-Official, CAPACITY. (Now Jared Polis AS Governor)
- ② Michael Hancock, Mayor, individual And official, CAPACITY
- ③ CYNThia CoffMAN, Attorney General, Individual And official CAPACITY
- ④ PATrick FirMAN, Sheriff Denver County, Individual CAPACITY official CAPACITY
- ⑤ Bd. of County Commissioners of Denver County ① F.N.

C

JURISDICTION

The Supreme Court has The Power To review VIRTUALLY Any Decision of A Federal Court of Appeals 28 USC, § 1254 (1)

F.N.-1 - WAS ADDED on The Amended Complaint That the Dist. Ct. And Appeals Ct. Refused To Consider.

This matter involves Constitutional And Federal LAW, THAT effect NOT only The PARTIES involved BUT ALSO The CITIZENS of The STATE of COLORADO And CITIZENS of other states whom travel Through COLORADO And become Subject To Arrest. SEE Supreme Court Rule 10

This MATTER Also conflicts with other Federal Court rulings And Prior Decisions. SEE Supreme Ct. Rule 10.

FEDERAL Courts had Prior Jurisdiction Because it involves Federal LAW And CONSTITUTIONAL RIGHTS Deprivations from ACTORS, AGENTS, Employees of The STATE of COLORADO. IT INVOLVES The Deprivations of Private Property from Citizens Before The Citizens Are Afforded Notice And Hearing Nor even Been Adjudicated. The deprivation Arises only from Police Probable Cause, NOT EVEN Probable Cause Authorized by A Judge, And;

This Private Property taken is Also used for Public use which is in Violation of Federal And CONSTITUTIONAL LAW And;

NOT EVERY Arrestee or Citizen Arrested Subjected To This TAKINGS Equally. IF A Person /citizen Does not have cash money, Then The Deprivation is NOT Enforced. So citizens whom Do NOT USE cash, only credit or debit cards Are Never Subjected To This deprivation or TAKINGS CLAUSE which Violate The 14th Amend of The Federal Constitution. And;

The ACTORS Envoled HAVE Allowed Denver County sheriffs Deputies To Act AS Judge, Jury, And Executioners by imposing A fine (which is Punishment) And Collecting The monies/property without a Hearing OR A chance for A Hearing which is Also In Violation of The Constitution And Supreme Court Rulings. SEE: BEARDEN - V- GEORGIA 461 US 660, 668-69 672-73. ALSO SEE DOLAN - V- City of TIGARD 512 US 374 383 STATING "The TAKINGS CLAUSE of The 5th Amend of The Federal Constitution is made Applicable To The STATES Through The 14th Amend. § Burns 544 F.3d at 286 "Property Right Interest in funds in Inmate Acct. As Due Process of LAW.

Furthermore To prove This is A federal Courts Jurisdiction To comply with Supreme Court Rule 14.1 (g) (ii) I will present Prior CASES ON This same issue THAT HAS been adjudicated in

Federal Courts. SEE MATHEWS-V-ELDRIDGE 424 US 319 335 (1976) ÷ Allen-V-Leis 213 F.Supp 2d at 832 ÷ Roehl-V-City of Naperville 857 F.Supp 2d 707 717 (N.D. Ill 2012) These CASE Sightings Not only Show THAT A federal Court has Jurisdiction But Also Shows THAT There is Conflict in Federal Court decisions Which Also ENACT The Supreme Courts Jurisdiction.

Furthermore There is A 6th Amendment Violation According To The Supreme Court Rulings in : Appendi-V-New Jersey 530 US at 490 ÷ Blakely-V-Washington 542 US at 301-where The Supreme Court re-invigorated The 6th Amend. Right To A Jury, Concentrating on The need for The local Community, in The form of The Jury, To impose Punishment on Those found Guilty. Also see : Southern Union Co-V-United States 132 S.Ct 2344 2350-51 2357 (2012).

And To Look At 8th Amend. ISSUES which Also impowers Federal And United States Supreme Courts Jurisdiction We look at Prior Supreme Court Rulings in United States-V-Bajakjan 524 US 321 324 STATING THAT "when forfeitures Become Punishment, fines That Are Punitive in Nature. And The Excessive fines clause limits The Government's Power To EXTRACT Payments whether in CASH or in Kind As Punishment for some offense,

The 4th Amendment And 5th Amendment As defined in Soldal 506 US at 70 113 S.Ct 538 Are The implication of 2 Explicit Textual Sources of CONSTITUTIONAL Protection in Dealing With The seizure of Property

In Downs-V-Bidwell 182 US 244-it was stated that No higher Authority Rests Upon This Court Than To EXERT its full Authority To Prevent All Violations of The Principles of The CONSTITUTION for The United States.

As The Court stated in Boyd-V-United States 116 US 616 635 - "CONSTITUTIONAL Provisions for The Security of Person And Property Are To be Liberally Construed And its Duty of The Courts to be watchful for The Constitutional Rights of The Citizens And Against ANY STEALTHY ENCROACHMENTS Thereon.

United States-V-Taylor 648 F.2d 565 US App. Lexis 19049 The Common-law Writ of Error Coram Nobis is Available by statute 28 U.S.C.S. 1651 (a) To Correct Errors of FACT of such fundamental character As to Render The Proceeding itself Irregular And INVALID, And 28 USCA 2255

The S.Ct stated it is axiomatic that A fair trial

IN A fair Tribunal is A BASIC Requirement of Due Process And Such fairness Includes A fair And ImpARTIAL Adjudicator :
CAPERTON - V- A. T. MASSEY COAL Co 129 S.Ct 2252 2259 Quoting
IN Re Murchison 349 US 133 136

The Assertion of Federal Rights when Plainly & reasonably made, is NOT to be defeated Under The Name of local Practice : DAVIS - V- Wechsler 263 US 22 at 24 - Assures THAT The Dist. Ct's Dismissal for Not showing how Post deprivations WAS inadequate should NOT Be Appropriate Because The CONSTITUTIONAL Violations should HAVE never occurred And The denial of The Return of The illegally TAKen Property should have been enough To file A claim And The dismissal from The Dist. Ct And Appeals COURT should be enough To ENACT The Jurisdiction of The Supreme Court.

Your Rights must be interpreted in Favor of the Citizen
WAS The Supreme Courts Decision in Scheuer - V- Rhodes 416 US 232 Expounds Upon Owen Byers - V- US. 273 US 28

And AS STATED in Hertado - V- California 110 US 516,
- The STATE CANNOT Diminish Rights of The People. Therefore my only Remedy Left is with The Supreme Court where Jurisdiction is Appropriate for This matter.

IN Reading Ex Parte Young 209 US 123 28 S.Ct 441
1908 Lexis 1726 52 L.Ed 714 - IT IS most True That this Court Will NOT take Jurisdiction if it should NOT. But it is Equally True THAT it must take Jurisdiction if it should. And;

See Cohens - V- Virginia 6 wheat 264 404 is most Apposite, The Judiciary CANNOT, as The Legislature may, Avoid A measure BECAUSE it Approaches The confines of The Constitution. We CANNOT PASS it by BECAUSE it is doubtful. With whatever doubts, difficulties, A CASE MAY be Attended, We MUST decide it, if it be brought before us. We HAVE No more Right To decline The exercise of Jurisdiction which is given, Than To USURP THAT which is NOT Given. The one OR The other Would be Treason To The CONSTITUTION. Questions may occur which We Would Gladly Avoid, But We CANNOT Avoid Them. All We can Do is To Exercise our Best Judgment And Conscientiously Perform our Duty. - I Know This MAY Be difficult And Troublesome To Approach And Resolve But it is CONSTITUTIONAL Questions THAT effect All Citizens whom live OR MAY TRAVEL Through The STATE of COLORADO Therefore I believe THAT The Supreme Court HAS Jurisdiction of This MATTER ESPECIALLY SINCE I HAVE NO OTHER Relief OR Remedy I CAN Pursue or See K.

FINALLY IN SHOWING WHY PETITIONER FEELS THAT THE SUPREME COURT HAS JURISDICTION TO HEAR THIS MATTER. THE DIST. CT. DECISION TO DISMISS THIS CASE AND THE APPEALS COURTS APPROVAL OF DISMISSAL WAS IN CONFLICT WITH PRIOR FEDERAL COURTS RULINGS AND WAS NOT IN ACCORDANCE WITH THE CONSTITUTIONAL GUARANTEES OF RIGHTS SECURED AND PROTECTED BY THE CONSTITUTION OF THE FEDERAL AND STATES. SEE ORDERS OF THE COURTS: UNITED STATES COURT OF APPEALS APRIL 17TH 2020 BEFORE JUDGES MATHESON, BALDOCK, AND KELLY. AND THE U.S. DISTRICT COURT FOR THE DISTRICT OF COLORADO ON APRIL 23, 2019 LEWIS T. BALDOCK AND THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO APRIL 5TH 2019 GORDON P. GALLAGHER, AND U.S. DISTRICT COURT, DISTRICT OF COLORADO AUGUST 17TH 2018 GORDON P. GALLAGHER, AND UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO, OCTOBER 9TH 2019 LEWIS T. BALDOCK,

D

STATEMENT OF THE CASE

ON FEBRUARY 27TH 2018 AND JANUARY 27TH OF 2018 I WAS BOOKED INTO DENVER COUNTY JAIL AFTER ARREST AND \$30.00 OF MY PRIVATE PROPERTY WAS TAKEN FROM MY PERSONAL ACCOUNT BEFORE EVEN BEING ADDED TO THE INMATE ACCOUNT. THE DEPUTIES AT THE JAIL SAID IT WAS A BOOK-IN FEE. I THEN ASKED THE DEPUTIES IF THEY EVER HEARD OF THE ALLEN-V-LEIS CASE FROM CIN CINNATI OHIO HAMILTON COUNTY WHERE THE FEDERAL COURTS STATED THAT THE TAKING OF PROPERTY FOR A BOOK-IN FEE WAS ILLEGAL.

THE OFFICERS REPLIED NO THEY HAVE NOT HEARD AND I STATED THAT I AM FROM OHIO AND I HAD WENT TO HAMILTON COUNTY JAIL TO RETRIEVE MY PROPERTY THAT WAS UNLAWFULLY TAKEN AFTER THE FEDERAL COURTS RULED IN FAVOR OF ALLEN.

THE OFFICERS DID NOT CARE ABOUT FEDERAL COURT RULINGS. AND I ALSO POINTED OUT THAT THERE WAS A NEWS SPECIAL ON A DENVER CHANNEL THAT WAS DISCUSSING THE ILLEGALITY OF BOOK-IN FEES.

THE OFFICERS STILL TOOK MY MONEY AND SAID IF I DID NOT SIGN THE AGREEMENT THEY WOULD NOT BOOK ME IN AND HOLD ME IN THE HOLDING CELL UNTIL I SIGNED THE AGREEMENT.

ONCE I WAS IN A REGULAR POD I STARTED SENDING KYTES TO THE JAIL STAFF ASKING FOR MY BOOK-IN FEES BACK. AND THE JAIL STATED THAT I HAD TO BE FOUND NOT GUILTY AND HAVE ALL KINDS OF INFORMATION AND SEND IN A REQUEST TO GET IT BACK.

I THEN TRIED TO PLEA THROUGH THE KYTE AND GRIEVANCE SYSTEM OF THE DENVER COUNTY JAIL TO RETURN MY PROPERTY THAT THEY TOOK FROM ME AND I WAS DENIED THAT RELIEF ALSO.

ON 6-11-2018 I filed suit with The United States District Ct. District of Colorado AS A 42 USCA 1983.

ON August 10th 2018 Plaintiff filed A Request for Attorney And ON 8-14-2018 The Court denied THAT motion. Honorable Judge Lewis T. Babcock.

ON 2-13-19 District Court Judge/Magistrate ordered Petitioner To Amend Complaint And Petitioner Did NOT receive A copy of The ORDER Until April 2nd 2019 AT Crowley County Correctional. This ORDER WAS By Gordon P. GALLAGHER.

ON 4-5-19 District Court Judge Lewis T. Babcock Put IN A ORDER For Reference To U.S. Magistrate Judge To Review The ACTION Pursuant To D.C. COLO. L. CIVR 8.1 To Magistrate Gordon P. GALLAGHER.

ON- 4-9-19 MAGISTRATE Gordon P. GALLAGHER filed A Recommendation REGARDING Dismissal.

ON April 5th 2019 Petitioner sent in Amended Complaint from Crowley County Correctional.

NOTE : ON April 2nd 2019 Petitioner received The order by MAGISTRATE / Gordon P. GALLAGHER To Amend Complaint THAT WAS ordered ON 2-13-19. Petitioner THEN filed And sent in Amended Complaint ON 4-5-19. BUT WAS NOT Received UNTIL 4-15-19 when filed.

ON 4-5-19 Petitioner Receives The order for The Recommendation Regarding Dismissal And ON

ON 4-11-19 Petitioner Receives the order for the Recommendation And sends his objection IN ON 4-12-19 BUT it WAS NOT Filed UNTIL 4-18-19

ON- 4-23-19 District Court Judge Lewis T. Babcock Accepted The Recommendation from Magistrate Gordon P. GALLAGHER And Dismissed The Action/complaint With Prejudice As Legally frivolous.

ON August 28, 2019 Petitioner filed A Writ of Error / Motion To Reconsider.

ON 10-9-19 The motion To Reconsider WAS denied By Lewis T. Babcock.

ON 11-12-19 ORDER AS TO Notice of Appeal WAS filed ON 11-8-19.

ON 11-5-19 Petitioner sent in His opening Brief (form

A-12) IN Lieu of Brief To The United STATES COURT of Appeals for The 10th Circuit.

ON 4-17-2020 The 10th Circuit; Honorable Judges Matheson Baldock, And Kelly delivered order And Judgment Affirming The District Judges order And The Magistrates Judges Recommendation.

Since 4-17-2020 Petitioner has been Researching And Preparing This Writ of Cert To The U.S. Supreme Court.

[E] REASONS FOR GRANTING WRIT

(1) Petitioner is A 49 YEAR old man who quit school in The 7th Grade, Due To severe Behavior Problems which resulted in Being unable To LEARN And Being in severe Behavior HANDICAPPED schools. When Petitioner filed Original Complaint He did not know The Word Omit - Ambiguous let alone its definition. He could NOT comprehend The LEARN^T LANGUAGE of The CONSTITUTION, nor could He understand The Procedures OR STATUTORY Interpretation of LAWS.

Petitioners Legal Education came from Convicts, convicted of Murder, Robbery, Rape And whom only Argue U.C.C. Codes, OR Sovereign Cit.^{izenship}, ON CONSTITUTIONAL LAWS. And By These Teachings The Petitioner WAS LEAD ASTRAY further from The lawful Arguments THAT He REALLY needed To LEARN AND Argue.

Petitioner is Also Attention Defecit Disorder, And Bi-Polar, with P.T.S.D. From Growing up With 2 Blind Parents IN The STREETS of CLEVELAND Ohio And The Youngest of 4 Kids Whom WAS molested By Government Agents, Actors, Affiliates, Which has lead To severe Emotional Ties To his pleadings And his expressions IN his Arguments.

With This being said The Argument THAT The petitioner's claim should NOT Be dismissed Because of-OR Due To his inability To follow Procedures - Rules OR Understand The Legal process IS A claim THAT The Petitioner Prays That The Supreme Court will consider And Understand The Significance of Such dismissal.

The Petitioner has READ several CASE LAW sightings on This ISSUE And will Present Them To The Court To help show support for His Argument on This MATTER. SEE:

DAVIS-V-ZANRADNICK 600 F.2d 458 460 (4th Cir) ÷ Wright-V-Collins 766 F.2d 841 846 (4th Cir), Holding - To Protect Pro-se litigants

from forfeiture of Rights Because of Ignorance.

And The 9th Circuit Agreeing - "Because Pro-se litigants Are Unable To Comprehend Procedural Requirements, Courts must Ensure This Ignorance Does NOT CAUSE loss of Claim: GARAUX - V- Pulley 739 F.2d 437 439 (9th Cir.)

Then Again IN: CANTY - V- City of Richmond 383 F. Supp. 1396 1399-1400 E.D. Va 1974 aff'd sub nom CANTY - V- Brown 526 F.2d 587 4th Cir. STATING "Heightened Solicitude Required for Pro Se Plaintiffs To Ensure Allegations of CONSTITUTIONAL deprivations Are NOT defeated BECAUSE OF INARTFUL Presentation.

We look AT PROCUNIER - V- MARTINEZ Supra at 405 94 S.Ct at 1807 where This Court said "While We have Recognized That Judicial Restraint is often Appropriate in Prisoners Rights Cases, We have Also Repeatedly held That This Policy CANNOT ENCOMPASS Any failure To TAKE Cognizance of Valid CONSTITUTIONAL claims.

And PROCUNIER Supra falls in line To Support The Opinion in ROSS - V- Moffitt 417 US at 616 94 S.Ct at 2446 NOTED THAT A COURT ADDRESSING A DISCRETIONARY Review Petition is NOT Primarily Concerned With The Correctness of The Judgment Below, RATHER Review is Generally Granted only IF A CASE RAISES AN ISSUE of Significant Public Interest OR Jurisprudential Importance OR Conflicts with Controlling Precedent. Id, AT 615-617 94 S.Ct at 2446-2447.

NOTE: The INARTFUL OR UNEDUCATED claim That Petitioner has TRIED To RAISE Should be Enough To show IT Conflicts with Controlling Precedent - HAS Public Interest - And IS of Jurisprudential Importance, which should be protected from Dismissal for ignorance or LACK of Legal Skills As pronounced in These Cases Cited.

And if We look AT what was said in FLANNERY & Robbins Supra NOTE 38 at 778 - most Pro-se litigants Are Unable To Properly Construe Procedural Rules, Then Compare That opinion With: TRAGUTH - V- ZUCK 710 F.2d 90 95 (2d Cir 1983) where The District Court ERRED in Allowing forfeiture of Pro-se litigants claim Caused By LACK of Legal Skills.

② The District Court And The court of Appeals HAS Dismissed my Argument of Separation of Powers STATING THAT:

(a) District Court order Directing Plaintiff To file Amended Complaint by Gordon P. GALLAGHER ON 2-13-19 = [C] Separation of powers ON Pg. 6 = The COURT KNOWS of No Violation of The Separation of Powers Doctrine based only ON A Jail Imposing An administrative fee, such AS A Booking fee, ON AN INCARCERATED Individual.

NOTE: The claim stated That The Sheriffs Dept. HAS No Authority To Punish With A fine A Pre-Trial Detainee who has NOT BEEN found Guilty By A Judge OR Jury. And The District Court Refused to add.

RESS THIS ISSUE OR TO CONSIDER THE COMPLAINT BECAUSE OF NO PRIOR DECISION ON THIS MATTER. IS THIS NOT WHY WE RAISE QUESTIONS OF LAW TO GET ANSWERS OF ACTS PERFORMED BY GOVERNMENT TO BE DETERMINED TO BE LAWFUL OR NOT. EVEN IF THE QUESTION HAS NEVER BEEN ADDRESSED BEFORE? HOW ELSE DO WE FIND OUT IF A LAW IS ILLEGAL? WE HAVE TO ADDRESS THESE COURTS DO WE NOT? AND CAN A FEDERAL COURT AVOID A CLAIM OR QUESTION BECAUSE IT HAS NEVER BEEN ADDRESSED BEFORE?

(b) THE RECOMMENDATION REGARDING DISMISSAL BY MAGISTRATE GORDON P. GALLAGHER ON 4-9-19 MENTIONS THAT I RAISED THE CLAIM OF SEPARATION OF POWERS BUT NEVER BASIS NO DECISION ON FINDINGS OF FACT AND CONCLUSIONS OF LAW.

(c) THE ORDER BY JUDGE LEWIS T. BAKERCK DID NOT ADDRESS THE SEPARATION OF POWERS AT ALL. PERIOD. NO MENTION OF SEPARATION OF POWERS SO I CAN REFERENCE SUCH DECISION.

(d) THE UNITED STATES COURT OF APPEALS ORDER AND JUDGMENT FOR THE 10TH CIRCUIT BY JUDGES MATHESON, BAIDOCK, AND KELLY STATED ON APRIL 17TH 2020 "WE DISMISS HIS APPEAL AS FRIVOLOUS AND DENY HIS I.F.P. AND ALSO APPLY A STRIKE BECAUSE:

(i) THE MAGISTRATE JUDGE DETERMINED THE ORIGINAL COMPLAINT FAILED TO ASSESS FACTUAL ALLEGATIONS TO SUPPORT A CLAIM OF SEPARATION OF POWERS. WE ARE UNAWARE OF ANY AUTHORITY AND ROBINSON HAS CITED NONE, THAT THE DOCTRINE OF SEPARATION OF POWERS IS A SOURCE OF INDIVIDUAL RIGHTS ACTIONABLE UNDER §1983,

NOTE: 42 USCA 1983—"Every Person" who, under color of any statute, ordinance, regulation, custom, or usage, of any state or territory or the District of Columbia, "subjects" or "causes to be subjected", "any citizen" of the U.S. or other person within the jurisdiction thereof to ~~the~~ the deprivation of "any" rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law or in suit in equity, or other proper proceeding for redress...

Nowhere in this statute does it say that if there has no prior ruling on a matter then it will not be addressed, nor does it say that if the right, privilege, or immunity only affects 1 person then that is not a claim under 1983. NO IT STATES THE EXACT OPPOSITE. AND ALSO SEPARATION OF POWERS IS AN IMMUNITY SECURE THE PROTECTION OF RIGHTS AND PRIVILEGES SECURED AND PROTECTED BY FEDERAL CONSTITUTION AND LAW, WHICH SHOULD BE ACTIONABLE UNDER 1983.

(ii) FURTHER IN THE ORDER AND JUDGMENT BY THE 10TH CIR, THEY PROCEEDED WITH THE DISMISSAL OF SEPARATION OF POWERS BECAUSE "HE HAS WAIVED HIS APPELLATE REVIEW BECAUSE HE DID NOT OBJECT TO THESE FINDINGS AND

Recommendations. We have adopted A firm Waiver Rule when A Party fails To object To The Findings And Recommendations of The MAGISTRATE. Quoting United States - v - 2121 E. 30th ST 73 F.3d 1057 1060 (10th Cir 1996) Finding A GENERAL objection insufficient To Preserve Appellate review of Specific Issues.

NOTE: This is A 2 PART Argument. First I did Submit AN objection See ECF No. 19 And it was Timely. see U.S. District Ct. ORDER By Lewis T. Babcock ON 4-23-19 First Page first Paragraph, 2nd Sentence. = Second PART About The GENERAL OBJECTION Argument Reflects BACK To Questions To The Court #1 And Reasons To GRANT Writ #1. Which is, CAN LACK of LEGAL SKILLS or INARTFUL presentations Dismiss A Claim of A Pro-se litigant,

The issue is AS outlined in FACTS of The case, The late ORDER To Amend The Complaint Came ON April 2nd 2019 So I WAS trying To READ, UNDERSTAND And Respond With The appropriate filing. And Then The Recommendation Came And I only had 14 days To Respond And Time Limits WAS outlined ON Pg 8 in PART D - STATEMENT of The CASE.

Also I would like To Note That when I get A Ruling or order or Judgment I have To Go LOOK up The Rules, CASE Sightings And Procedures of The next step, when doing This I have To define about every 6th - 10th word in BLACK LAW Dictionary, And while Reading The definition I find words in The definition itself That I have To Go RESEARCH. And In Prison it takes A week To GET To The law Library After The initial RYTE Request And You only GET it for 2 - 2 1/2 hrs. So I did The Best I could on The objection To The Recommendation And feel That is NO REASON To Dismiss A Constitutional Claim.

③ The Policy for Denver County Sheriff Dept. is To TAKE \$30.00 from ~~Arrestees~~ Arrestees At The Processing of Each Person OR what ever money They HAVE ON HAND NOT To exceed \$30.00 Based only on Probable Cause of A Police Report. No Judge, No Jury Input or findings of Guilt. Nor even any charges Yet brought By The Prosecutors office whom is in charge And Elected To bring charges for criminal ACTS. This \$30.00 TAKING will not be returned unless you are found NOT Guilty And You have To file The Proper Paper Work And wait for A Re-

fund. Here There is A 2 PART ISSUE AS RAISED IN QUESTION #3. The Second PART is "CAN THIS CONSTITUTIONAL deprivation AND violation of Protected Immunity Really Be Frivolous?" I will Argue IN A Two PART Argument ON These ISSUES;

(2) So I begin With The TAKINGS of Property for the Imposition of Punishment BASED Solely on Probable Cause;

(i) The Property will only be returned if The citizen is found NOT Guilty. Therefore MAKING This Punishment for A Crime, And NOT A civil debt. THAT TAKES This beyond A Due Process Claim, And The TAKINGS CLAUSE. IT Adds 2 more Constitutional Rights violations (1) The 6th Amend. Right To Jury Trial. And (2) The 8th Amend ~~Excessive~~ fines Clause And The Cruel And Unusual Punishment Clause. Below IS CASES cited To Help Support my Arguments.

IN Kennedy -v- MARTINEZ MENDOZA 372 US 144 168-69 - This Court Provided A 7 BINT BENCHMARK TEST To determine whether A Sanction HAS A Punitive Purpose OR effect so it would decipher Between Civil OR Criminal. = The Reading of This BENCHMARK Test MAKES This TAKINGS A punitive Punishment.

As in the CASE of Criminal Justice debt, The 6th Amend. Jury Trial Right dictates THAT The Community must have A Say in The Punishment Imposed. See: Southern Union Co -v- United States 132 S.Ct 2344-2350-51 2357. This Decision Being Based on The Ruling in The Supreme Courts decision in: Apprendi -v- New Jersey 530 US at 490, where The Court explained THAT it does NOT -- And has Never -- distinguished one form of Punishment from Another, And Thus Apprendi must Apply To all Criminal Sanctions: Apprendi's Core concern, is To Reserve To The Jury The determination of facts THAT WARRANT Punishment for A Specific STATUTORY offense... And That concern Applies whether The sentence is A Criminal fine OR ~~imprisonment~~ imprisonment, OR Death.

Police officers And Deputy Sheriffs, And OR County Commissioners CANT Decide To Punish You with A criminal ~~sanction~~ SANCTION BASED on Probable Cause, NOR CAN A GENERAL Assembly Authorize Any one To ENACT A Rule To Punish without A finding of Guilty By A Jury And OR Judge.

And To further Argue The punishment issue We look at The Ruling in BLAKELY -v- WASHINGTON 542 US at 301 THAT only A Jury CAN INCREASE The Punishment. Fines And Costs Are set forth By A Judge for The Cost of Prosecution, This includes The Book-in fee. To Charge MORE & for A Book-in fee is AN INCREASE in Punishment.

MORE Recently This Court Held THAT the, Excessive fines Clause of The 8th Amend. ARE REACHED when Forfeitures ARE Punitive in Nature.

And The 8th Amend Excessive fines Clause limits The Governments Power To EXTRACT Payments, Whether in CASH or Kind As Punishment for some offense, IT STATED THAT Forfeiture of currency CONSTITUTED Punishment BECAUSE it served NO Remedial Purposes, And MADE A CAREFUL DISTINCTION Between Traditional civil Forfeitures And Those Based on Criminal matters. This DISTINCTION is IMPORT ANT BECAUSE The Supreme Court Classified forfeitures, fees, fines stemming from The Criminal Justice System As Punitive Despite The Governments Attempted Re-CATEGORIZATION. SEE: United States -v- Bajakajian 524 US 321 324, QUOTING Austin -v- United States 509 US 602 609-10.

If We look AT The Ruling in: Phillips -v- Wash Legal Fund 524 US 156 1998 ÷ United States -v- Sperry Corp 493 US 52 62 n.9 1989 ÷ Webb's Fabulous Pharmacies Inc -v- Beckwith 449 US 155 1980. The Supreme COURT found THAT "Money"... CONSTITUTES Property for Purposes of Applying The TAKINGS Clause.

And IN Dolan -v- City of Tigard 512 US 374 383 (1994) - The TAKINGS Clause of The 5th Amend. is made Applicable To The States Through The 14th Amend. WAS The Ruling.

Economic Regulations THAT went "Too far" in interfering with Property Rights Would Be A TAKING. WAS The Ruling in Pa. Coal Co -v- MATHON 260 US 393 415,

Look AT EASTERN Enterprises -v- Apfel 524 US 498 - where it WAS Ruled THAT The Coal Act Regulation Did In fact Violate The TAKINGS Clause.

And As A matter of Due Process, An offender may not be sentenced ON The Basis of Mistaken facts OR Unfounded Assumptions, WAS The Ruling in Townsend -v- Burke 334 US 736 740-41 1948.

A State Cannot deprive A Person of Property without Due Process of law WAS The Courts opinion in WALKER -v- SAVINET 92 US 90

IT MUST Be Borne in mind THAT The Constitution, laws, & Treaties of The United States Are As much A PART of The law of EVERY STATE As its own local laws And Constitution. This is A FUNDAMENTAL Principle in our system of complex NATIONAL Polity. SEE: SHANKS -v- DUPONT 3 Pet 242 ÷ Foster & Elam -v- Neilson 2 id 253 ÷ The Cherokee Tobacco 11 Wall 616 ÷ MR. Pinkey's Speech, 3 ELLIOTS CONSTITUTIONAL DEBATES 231 ÷ The People & c -v- GERKE & CLARK 5 Cal 381.

To Really Affirm My Argument ABOUT Due Process - We Look AT WHAT WAS The main Point in Several cases STATING "Due Process Requires Equal Treatment of All Persons Similarly situated & Protects Against Arbitrary Classification And discrimination By Congress. = When Rich People who do NOT USE CASH only debit cards, or Poor Persons whom have NO money To TAKE, They Do NOT GET ASSESSED This TAKING of \$30.00 which makes it Unequal To People in similar

SITUATIONS. SEE : HURTADO-V-CALIFORNIA 110 US 516 535-36 :
United STATES -V- YOUNT 267 F 861 863 : Leeper-V-Texas 139 US 462
: GIOZZA-V-Tiernan 148 US 657 662 : CALDWELL-V-Texas 137 US
692 697 : MAXWELL-V-Dow 176 US 581 : BARKLEY-V-Edwards
267 US 442 450.

And in United STATES-V-Mosley 238 US 383 387 388- it
WAS STATED THAT ALL RIGHTS To be Reserved And Protected By The U.S. CONSTI-
TUTION. NOT JUST FEDERAL RIGHTS.

This Civil Rights ACT of 1866 which is now 18 USC 242 -
FORBade The deprivation, "Under Color" of Any LAW of Any Right secured
OR Protected By This ACT. The RIGHTS Protected By This ACT ARE NARROW
And SPECIFIC : TO MAKE AND ENFORCE CONTRACTS - TO SUE - BE PARTIES -
Give Evidence - And To The "Full And Equal" Benefit of ALL LAWS And Proce-
edings for The security of Person And Property AS is enjoyed by white
Citizens And To be SUBJECT To like Punishment, PAINS, PENALTIES, TAXES,
Licenses, And EXACTIONS of Every Kind And None other. SEE : U.S. -V-
Price 383 US 787

Under Color of LAW means The SAME THING in 242 THAT
it does in The Civil Counter PART of 242, 42 USC 1983 - SEE MONROE
-V- PAPE 365 US 167

And if A Judgment is rendered in Violation of Due Process
is Void from its inception. SEE World Wide Volkswagen-V-Woodson 444
US 286 291 : NATIONAL BANK-V-Wiley 195 US 257 : PENNOYER-V-NEFF 95
US 714. = Be rendering A Judgment To TAKE Property for A crime not
yet convicted of Violates Due Process And THAT Judgment Becomes
Void.

The Requirements of Due Process must be met before The
Court CAN Properly HAVE PersonAM Jurisdiction. According To : FARGO-V-
WELLS Fargo 556 F.2d 406 416. : So if A Court HAS NOT officially AC-
quired Jurisdiction AT The Time of Processing, How CAN Any Penalty be im-
posed.

A Right OR Immunity, whether Created by The constitution
OR only GUARANTEED by it, even without Any Express Delegation of Authority-
Power, MAY Be Protected by Congress : PRIGG-V-The Commonwealth of
PENNSYLVANIA 16 Pet, 539 : United STATES-V-Reese 92 US 214. So AS To
my Argument I Believe I Put forth ENOUGH Prima facie Evidence To
show CONSTITUTIONAL Violations And AT some Point, Some Authority, in
Some BRANCH of Government should Protect my Rights.

And in my final Argument To Prove THAT my CLAIMS WAS
NOT Frivolous, But instead of CONSTITUTIONAL And Federal Protections
By All 3 Spheres of The Government, We look at The Rulings in The
CASE of : WARD-V-Comm of love County 253 US 17 1920 40 S.Ct
419 64 L.Ed 751 - STATING THAT The moneys Thus collected were

obtained by Coercive MEANS, By Compulsion. The County And its officers Reasonably could NOT Have Regarded it otherwise, much less The Indian Claimants: ATCHISON, TOPEKA & Santa Fe Ry Co - V - O'CONNOR 223 US 280 ÷ Swift Co - V - United States 111 US 22 29 ÷ Robertson - V - FRANK Bros. Co 132 US 17 23 ÷ OCEANIC STEAM NAVIGATION Co - V - STRANAHAN 214 US 320 329. Then THE COURT Went on To SAY - THAT The Collect These UNLAWFUL TAXES By COERCIVE MEANS AND NOT INCUR ANY OBLIGATION To PAY Them BACK is NOTHING short of SAYING THAT it could TAKE OR appropriate The Property of These INDIANS Allottees Arbitrarily, And Without Due Process of LAW. of course This would be in Contravention of The 14th Amend. Which Binds The County AS AN Agency of The STATE. Sighting: MARSH - V - Fulton County 10 Wall 676 684 ÷ City of Louisiana - V - Wood 102 US 294 298-99 ÷ CHAPMAN - V - County of Douglas 107 US 348 355.

NOTE: EVEN Without Knowledge of The language And Concept of The LAW AND its Procedures, I feel THAT By Presenting my claim With Such Strong CASE Rulings - And Actual Proof of The taking I Have Proven, FACIALLY, Enough To Present A claim And Have A chance To Present my claim With Assistance of A Professional if I am Incapable of Doing it myself. By All means my claim is not Frivolous And Should NOT HAVE EVER BEEN Ruled AS Such, which Takes US To The Next Point.

(ii) Frivolous - (1) of little importance: Trivial. (2) Lacking in Seriousness. = This is what The Federal District Court And The Federal APPEALS Court For The 10th Circuit THINKS ABOUT Denver County Sheriffs TAKING Citizens money without Due Process for Private USE. NOT ONLY me, BUT THOUSANDS of People. And A lot of Citizens get charged 2 OR 3 Times for The SAME charge if They Bond out And get Re-Arrested. And This money Never goes Towards The fines If A Person is found Guilty, And The Courts charge A fine or cost Again After Conviction. NOT All People PAY This fee. Only People With CASH on Hand. And it costs MORE To Retrieve The money Than it does To Just Lose it, If IT IS only 30 People A day (which it usually is MORE) THAT EQUALS up To \$328,500.00 A year. That is only for ONE County. IS This Really Trivial? Lacking in Seriousness? Lets Look AT Some Prior Rulings on Frivolous:

As stated in: Neitzke 490 US at 327 - And - Roman - V - Jeffes 904 F.2d 192 194 (3d Cir 1990. A claim BASED ON An Indisputably meritless Legal Theory may be dismissed as frivolous Under 28 USC § 1915 (d).

Formulae for Evaluating Frivolousness, Close Variations of The Definition of Legal Frivolousness which We Articulated in The 6th Amend. CASE of *Anders-v-California* 386 US 738 87 S. Ct 1396 18 L. Ed 2d 493. There The Court STATED THAT An Appeal on A matter of law is Frivolous where [None] of The Legal Points [are] Arguable on The merits.

When A Term is defined Neither by The statutory text nor its Legislative History The Court Ruled it must Construe it in Accordance with its ORDINARY AND NATURAL, OR PLAIN MEANING; see - *Director office of Workers Comp. Programs Dept of labor-v. Greenwich Collieries* US 114 S. Ct 2251 2255 129 L. Ed 2d 221 *Smith-v. United States* 508 US —, 113 S. Ct 2050 2055 124 L. Ed 2d 138. Thus in Determining whether Congress USED "Frivolous" To Authorize The dismissal of Trifling or Trivial Claims, we must Look To The PLAIN MEANING of frivolous CONSONANT, of course, with The GENERAL Legislative Purposes Served by The IFP STATUTE: *MAILLARD* 490 US 87 300-02

Frivolous - Oxford English Dictionary 556 (1987) $\div$ The American Heritage Dictionary 535 (2d ed 1982) ① unworthy of serious ATTENTION; Trivial. ② Inappropriately silly

The New Century Dictionary 618 (D. Appleton-Century Co 1927) of little or no weight, worth, or importance; Paltry or Trivial, Not Worthy of serious notice; CHARACTERIZED BY LACK of seriousness or sense Given To Trifling or levity.

NOTES So The District Ct says Since Denver County only TAKES A Small Amount of money, IT IS To Small of Amount for One Person To bring A Claim. IT DOESN'T MATTER THAT The Violation of Separation of Powers is USED To Violate Due Process - Excessive fines - Jury Trial - Equal Protection, Rights. So long AS The TAKINGS is in Small minute Amounts \$30.00 it is of little or no importance. So Theft from A Citizen for \$30.00 or less is of no importance And A Court should NOT Bother with it because its Considered Trifling. When in fact The 7th Amend. Right To A Jury Trial is \$20.00 OR MORE. So This By And in itself Contradicts WHAT The DISTRICT AND COURT of Appeals Are Ruling.

Read *Denton* 504 US 87 32 - saying - Moreover We Are not suggesting THAT A Complaints Factual Contentions should NOT Be Weighed IN The plaintiffs favor.

We look AT The 9th Cir C.O.A. Reversing And Remanding, Held THAT The ACTIONS could NOT Be dismissed AS Frivolousness Because it WAS Impossible To TAKE Judicial Notice THAT None of The Rapes Had occurred. A Complaint may NOT Be dismissed Under 1915 (d) Simply

BECAUSE A COURT FINDS THE PLAINTIFFS ALLEGATIONS UNLIKELY. see DENTON-V-HERNANDEZ 504 US 25 112 S.Ct 1728 118 L.Ed 2d 340 1992 US LEXIS 2689 60 U.S.L.W. 4346; 92 Cal. Where The Court Went on Further To Say " Dismissal of frivolousness of IFP Under 1915 (d) is Properly reviewed, on Appeal, for An Abuse of Discretion BECAUSE THAT DETERMINATION is discretionary. And its only Appropriate To Consider, among other Things, whether (1) The plaintiff WAS Proceeding Pro-se (2) The lower Court, inappropriately Resolved genuine issues of Disputed Fact. (3) The lower Court Applied ERRONEOUS Legal Conclusions (4) The lower Court Applied erroneous Legal Conclusions (4) The lower Ct has Provided A STATEMENT EXPLAINING The Dismissal, which Statement Facilitates intelligent Appellate Review And (5) The dismissal WAS With Prejudice, if it Appears To A federal Court of Appeals, In Re viewing A fed. Dist. Ct. 1915 (d) dismissal, That Frivolous Factual Allegations Can be Remedied Through more Specific Pleading, The C.O.A. should Consider whether The Dist. Court Abused its discretion by dismissing The Complaint With ~~Pre~~ Prejudice OR With out Leave To Amend, B/C A 1915 (d) dismissal CAN HAVE A RES JUDICATA effect on Frivolousness determinations for future I.F.P. Petitions.

NOTE: The Recommendation REGARDING Dismissal Entered on 4-9-19 By District Ct. MAGISTRATE Gordon P. GALLAGHER, WAS To Dismiss With Prejudice Without Accepting my LATE Amended Complaint (That WAS Justifiable Excuse) OR Allowing me To file A New Amended Complaint.

The Order By The U.S. Dist. Ct. Judge Babcock Entered on 4-23-19 WAS Dismissed With Prejudice Without No Consideration of An Amended Complaint.

The Order By The U.S. Dist. Ct Judge Babcock Entered on 10-9-19, Denying Motion To Reconsider

Then The 10th Circuit C.O.A. Dismisses Claim As Legally frivolous. ON April 17th 2020 Before Circuit Judges MATHESON, Balcock and Kelly. NOT SAYING With or Without Prejudice,

The Courts have inappropriately Resolved genuine issues of Disputed facts, BECAUSE OTHER Federal Courts has Ruled THAT A Booking fee Pre-deprivation WAS UNCONSTITUTIONAL. And Further To show THAT IT (The money) Should Never had been TAKEN, BUT To show THAT The Post deprivation Remedy WAS INADEQUATE BECAUSE The Sheriff's Dept. Refused To Return The money. So The Failure To Return The \$ upon Request And The illegal TAKINGS should have Been PRIMA FACIE Evidence To Support A claim. Thus making The Courts Ruling THAT THIS

CLAIM WAS FRIVOLOUS, AN, INAPPROPRIATELY RESOLVED GENUINE ISSUE OF DISPUTED FACTS.

THE LOWER COURT APPLIED ERRONEOUS LEGAL CONCLUSIONS, BY NOT ACCEPTING MY AMENDED COMPLAINT, DISMISSING WITH PREJUDICE, AND ALL THE OTHER ISSUES I'VE OUTLINED THROUGHOUT THIS PETITION.

AS THE COURT SAID IN: *COPPEDGE - V- UNITED STATES* 369 US 438 447 8 L. Ed 2d 21 82 S. Ct 917. IN ORDER TO RESPECT THE CONGRESSIONAL GOAL OF ASSURING EQUALITY OF CONSIDERATION FOR ALL LITIGANTS, INITIAL ASSESSMENT OF THE I.F.P. PLAINTIFFS FACTUAL ALLEGATIONS MUST BE WEIGHED IN FAVOR OF THE PLAINTIFF. FRIVOLOUSNESS DETERMINATION, FREQUENTLY MADE *SUD SPONTE* BEFORE THE ~~RESOLUTION~~ DEFENDANT HAS EVER BEEN ASKED TO FILE AN ANSWER, CANNOT SERVE AS A FACT FINDING PROCESS FOR THE RESOLUTION OF DISPUTED FACTS.

NOTE: MY ALLEGATIONS ARE FACTUAL AND HAVE NOT BEEN REBUTTED, ONLY DISMISSED. AND LABELED AS FRIVOLOUS. WITHOUT THE DEFENDANT REBUTTING ANYTHING.

THE P.L.R.A. SCREENING PROVISIONS DO NOT AFFECT THE RULE THAT A CT REVIEWING A COMPLAINT MUST ACCEPT AS TRUE ALL ALLEGATIONS OF MATERIAL FACT AND CONSTRUCT THEM IN THE LIGHT MOST FAVORABLE TO THE PLAINTIFFS, OR THE RULE THAT COURTS MUST CONSTRUCT PRO-SE PLEADINGS LIBERALLY. WAS THE RULING IN *RESNICK - V- HAYES* 213 F.3d 443 446 (9th Cir 2000) AGREEING WITH DIST. CT. LIBERAL CONSTRUCTION OF PRO-SE PLEADING. *GOMEZ - V- USAA Fed. SAV. BANK* 171 F.3d 794 795-96 (2d Cir 1999) (PER CURIAM) NOTING THAT PROSE COMPLAINTS MUST BE READ LIBERALLY.

A FACTUALLY FRIVOLOUS SUIT IS ONE THAT ALLEGES FANTASTIC OR DELUSIONAL SCENARIOS: *NEITZKE - V- WILLIAMS* 490 US 21 328, OR A COMPLAINT IS FRIVOLOUS IF IT LACKS AN ARGUABLE BASIS IN EITHER LAW OR FACT. *DENTON - V- HERNANDEZ* 504 US 25 33 112 S. Ct 1728 IS HOW THIS COURT ~~SETTLED~~ SETTLED THIS ARGUMENT OF FRIVOLOUSNESS.

SO IT THAT IS WHAT THE SUPREME COURT RULED, THEN WE SHOULD BE ABLE TO APPLY: *CLARK - V- GEORGIA PARDONS AND PAROLES Bd* 915 F.2d 636 639-40 (11th Cir 1990) (IF YOUR COMPLAINT IS NOT FAR OUT AS THOSE EXAMPLES, THE COURT SHOULD NOT DISMISS IT AS FACTUALLY FRIVOLOUS) AND *LAWLER - V- MARSHALL* 898 F.2d 21 1199 (AN ALLEGATION THAT THE PLAINTIFF OBSERVED OFFICERS CONDUCT THROUGH THE REFLECTION OFF HIS NAIL CLIPPER MAY STRAIN CREDULITY, BUT IS NOT SO DELUSIONAL AS TO BE FRIVOLOUS. OR IN *BRIDGES - V- RUSSELL* 757 F.2d 1155 (11th Cir 1985) SAYING COMPLAINT CANNOT BE DISMISSED WHEN PRISONER ALLEGES THAT HE WAS TRANSFERRED FOR, AMONG OTHER THINGS, PREPARING A GRIEVANCE LETTER FOR ANOTHER PRISONER. AND IN OTHER CASES WHERE FRIVOLOUSNESS DISMISSALS WAS RULED IN PROPER SUCH AS: *ADAMS - V- JAMES* 784 F.2d 1077 1081 1082 (11th Cir 1986) AND MEMBERS OF LOUISIANA STATE Bd OF PARDONS AND PAROLES 821 P.2d 1112 1114 (5th Cir 1987) AND *HILLIARD - V- Bd OF PARDONS AND PAROLES* 759 F.2d 1190 1192 1193 5th

Cir 1985.

FINAL NOTE: Such claims Presented Above show That Even Though Things may sound A little Crazy, AS LONG AS There is A Possible Chance of Truth Then A claim Should Not be Dismissed AS Frivolous. Furthermore my claim IS A Factual claim. [1] money WAS TAKEN Based on Probable Cause, No hearing, NO ADJUDICATION, NO Findings of facts, NO NOTICE, NO CHANCE TO Argue, Just A Pre-deprivation. [2] The Sheriffs Refused To Return it EVEN When I Let Them Know A Federal Court in Allen-V-Leis Supra. Ruled The TAKINGS UNCONSTITUTIONAL. [3] The money TAKEN only is TAKEN from People who have CASH ON HAND, which Subjects only certain People Under Them Same circumstances To such TAKINGS. [4] The Sheriffs Dept. ACTS AS Judge, Jury, And EXECUTIVER when They Assess The fine, TAKE The money, And Rule That You Are Able To Pay it. Thus Separation of Powers. [5] This is A CONSTITUTIONAL Deprivation And Violation That NOT ONLY affects me And or The Citizens of The STATE of COLORADO, But Also Any U.S. Citizen That Travels Through COLORADO whom may get A Ticket from A CAMERA ON The Roads And NOT GET The Ticket And Then GET A WARRANT Then GET ARRESTED. [6] And Also That The \$30.00 BOOK-IN Fee Does NOT EVER Go To The Payment of fines And Costs of The CASE. Instead it STAYS With The Sheriffs Dept. AS Private Use.

Any Jury of Competent Common sense Would see that there is Somewhat A Legal Argument here. Especially when You Add in The FACT THAT: STATE Does NOT Acquire Right To Punish Until Sentencing. See: Lewis-V-Downey 581 F.3d 467 475 (7th Cir 2009). And in Fuentes-V-Wagner 206 F.3d 335 341 3d Cir 2000 - The Right To Remain AT Liberty Continues Until Sentencing.

And To Add The Rulings from: Bell-V-Wolfish 441 US 520 535 99 S.Ct 1861 (1979) - ACCORD - Black-V-Rutherford 468 US 576 585-86 104 S.Ct 3227 (1984) ÷ MAGLUTA-V-Samples 375 F.3d 1269 1273 (11th Cir 2004) where it WAS SAID " Under The Due Process Clause, Pretrial Detainees CANNOT Be Punished.

To Define This Argument it has been Ruled That Conditions And Practices of Pre-Trial ~~Detention~~ Detention MAY be UNCONSTITUTIONALLY Punitive if They Are Intended To Punish Detainees. GERAKARIS-V-Champagne 913 F.Supp 646 651 (D.Mass 1996) ÷ D.B.-V-Tewksbury 545 F.Supp 896 905 (D.Or.1982) ÷ McMillian-V-Johnson 88 F.3d 1554 1564 (11th Cir).

If The deprivation of liberty OR property is intentional, IT IS A Deprivation For Due Process Purposes, And it is NO Defense THAT officials were only Negligent In Denying You Due Process for That Deprivation. SAMPLE-V-Diecks 885 F.2d 1099 1114 (3d Cir 1989) - if officials Authorize A System To deprive Persons of Life, Liberty, Property, it is irrelevant whether They intend THAT it VIOLATE Due Process.

Government Determinations of A GENERAL NATURE That Effect All EQUALLY Do NOT Rise To A Due Process RIGHT To be Heard. But When A RE-

Relatively Small Number of Persons ARE Affected on Individual Grounds
Right To A Hearing IS Triggered: WARREN-V- City of Athens Ohio 411 F.3d
697 710 6th Cir 2005.

And The Common law Right To The Protection of Property No
matter what The VALUE IS.

[4] The District Court Also Erred IN NOT Appointing Counsel To An
Uneducated Citizen With Mental Health Issues. For The following Re-
asons;

(a) There is A possibility That This case Could be A monumental force
That Could Change The Way These Courts TAKE MONEY for Book-in fees And
Have To Repay The \$30.00 Book-in Fee To Thousands of Citizens Just AS
Sheriff Simon Leis Did In Cincinnati, Ohio In Allen-V-Leis Supra. Which
In Turn IS A Complex ISSUE That Will Require Serious Litigation By A Pro-
fessional who is Educated in LAW And has Resources To GET Records
of The Jail And Individuals who is affected By The deprivation. SEE-
~~MA/PASS-V-Gibson~~ 28 USCA 1915 (e) & Fed Rule Civ. Proc. 56 (c) &
MA/PASS-V-Gibson 685 F.Supp 2d 573 (D.S.C. 2010).

(b) I HAVE A Colorable claim That should be addressed by The
Supreme Court Because of Federal Courts have Already Ruled on This
matter, And the D.I. Ct of Colorado, And The 10th Circuit C.O.A. IS
Saying it is A frivolous claim. Something is seriously Wrong here
And The Supreme Court, I hope, Will straighten it out And Appoint
An Attorney So my claim Can Be presented Properly. Some Case law
Supporting This Argument is Listed Below;

42 USCA § 2000e-5 (f) (1) - Appt. of Counsel in Particular
Civil Rights Actions.

Trial Ct ERRED IN failing to Appt., Sua Sponte, Counsel for in-
digent Inmate, where Inmate presented Colorable claim That Prison offi-
cials Wrongfully Opened his Legal mail outside his Presence, And Inmate
obviously had limited Skills with English language; CASTILLO-V-
Cook County Mail Room Dept. (1993 CA7 Ill.) 990 F.2d 304.

"LEGALESE" LE-gē-'lēz **[N]** : The Specialized Language of
The Legal Profession.

NOTE: AS Stated Before About my low level of American Language.
I Am Also A Hillbilly whose language is far off from American Proper
English And To Add A whole New language To learn from self teach-
ing IS very difficult.

Counsel MAY Be Appt. in Exceptional Circumstances. In A case under
1983 Such As when A Pro-se litigant has A Colorable claim But lacks the

CAPACITY To Present it. WAS SAID IN: Wright-V- Dallas County Sheriffs Dept. (1981 CAS Tex) 660 F.2d 623.

Trial Court erroneously denied Indigent Prisoners Petition For Appt. of Counsel Under 1915 (d) in ACTION Alleging denial of Medical CARE, where Courts denial WAS Predicated on its ERRONEOUS conclusion THAT Complaint Should be dismissed As Frivolous; IN: Smith-Bey-V- Hospital Administration (1988 CA7 Ind) 841 F.2d 751

Failure of Lower Court To Appt. Counsel Under 1915 for A Violation of Prisoner Rights in A 1983 suit CONSTITUTED, An Abuse of Discretion. The Court IN: Heidelberg-V-Hammer (1978 CA7 Ill) 577 F.2d 429 Reversing The lower Courts decision of dismissal, pointed out THAT IT IS Extremely Helpful To have Plaintiff Represented by Counsel in A CASE Such As This,

When NECESSARY To Insure That AN Indigent Prisoners Allegations Receive fair Consideration, The Courts Plain Duty is To Appt. Counsel To Assist The Prisoner in Defending The motion for Summary Judgement WAS The Ruling IN: Hudson-V-Hardy (1968) 134 App. D.C. 44 412 F.2d 1091 11 FR SERV 2d 1298.

And Reversing The dismissal of Prisoners 1983 ACTION Against The WARDEN of A Prison for The Alleged Theft of A WATCH By UNKNOWN Prison GUARDS The Court determined THAT Although The Prisoner had Improperly NAMED The WARDEN AS The Defendant, He had Alleged FACTS Under which A meritorious Claim might be Proved, And stated THAT A Dist. Ct. should Appt. Counsel under 28 USCA 1915 (d) if it is Apparent THAT A Pro-se litigant has A Colorable Claim BUT LACKS The CAPACITY To Present it. RATHER Than Dismiss A Claim which has Colorable merit but is Pleaded insufficiently, The Court Continued, A Dist. Ct. should Appt. Counsel To Assist The Pro-se litigant. is how The Court Ruled IN: GORDON-V-LEEKE (1978 CA4 SC) 574 F.2d 1147 cert denied 439 US 970 58 L.Ed 2d 431 99 S.Ct 464.

FINAL NOTE: I would hope THAT By A Federal Courts Ruling in Allen-V-Leis And Roehl Supra, THAT, THAT would be enough To show A Colorable claim, Let Alone All The other facts THAT I Presented. I USED A Federal Courts Wording IN The opinions To help perfect my Argument Because it was The SAME Argument of Deprivation of Property without Notice or Hearing. And it effected All citizens who ARE Subject To Police Encounter. For These Reasons I feel THAT I should Have Been Appt. Counsel.

[5] This Argument Will cover several Questions Presented, And will Be Addressed Separately, which it HAS Been Ruled THAT The Rights of The People THAT is Protected By STATE-FEDERAL LAW / CONSTITUTION CANNOT Be diminished By The state Under The NAME of local Pra-

CITICE AS Ruled IN : DAVIS -V- Wechsler 263 US 22 it WAS SAID THAT STATE Courts MAY Deal WITH THAT AS They THINK Proper IN LOCAL MATTERS, BUT They CANNOT TREAT IT AS Defeating A PLAIN Assertion of Federal Rights. The Principle is GENERAL AND NECESSARY. WARD -V- Love County 253 US 17 22 - if The Constitution AND LAWS of The United States ARE ~~NOT~~ To Be enforced, This Court CANNOT ACCEPT AS FINAL The decision of The STATE TRIBUNAL AS To WHAT ARE The FACTS Alleged To give Rise To The Right OR To BAR The Assertion of it, even Under local grounds

Creswill -V- Grand Lodge Knights of PyThias 225 US 246. This is Familiar AS To The Substantive law, and, for The same reasons it is NECESSARY To see THAT Local Practice SHALL NOT Be Allowed To Put UNREASONABLE obstacles IN The Way. American Ry Express Co -V- Levee Ante 19.

ARGUMENT: Dist. Ct. Judge Lewis T. Babcock Ruled With The Opinion of the U.S. Dist Ct MAGISTRATE RECOMMENDATION ON 4-9-19 ON Page 1 it WAS SAID THAT "MANY Courts have Determined THAT The Collection of A Jail Booking Fee does NOT Violate due Process AS long AS There is AN Adequate Post-deprivation Procedure Available To recover The fee for Individuals who were Wrongfully Arrested, NOT charged, OR NOT convicted: Sickles -V- Campbell County 501 F.3d 726 (6th Cir 2007)

This Post-Deprivation law Allows for The STATE TO ENACT LAWS AND Give Authority To The Sheriffs To ACT AS A JUDICIARY, To deprive Citizens of Due Process, Equal Protection And All The Arguments THAT I HAVE Presented HereIN. So Just BECAUSE They have All LAW THAT ONLY Allows CERTAIN People To Regain Their Money THAT WAS illegally TAKEN, Then ITS OKAY To Deprive Citizens of Several federal And STATE Constitutional Rights. This is A LAW THAT Allows Local Practice To deprive Citizens of The United STATES of FEDERAL Rights, which is IN VIOLATION And IN CONTRADICTION of The Supreme Courts Rulings. SEE:

United STATES -V- Peters 5 CRANCH 115 136 - IF The Legislature of The Several STATES MAY AT Will, ANNUAL The Judgments of The Courts of The United States AND DESTROY The Rights ACQUIRED Under Those Judgments, The CONSTITUTION itself Becomes A Solemn mockers. And:

THAT STATUTES which Would deprive A Citizen of The Rights of PERSON OR Property Without A Regular Trial, ACCORDING To The Course And USAGE of Common law, Would NOT Be The law of The land: HOKE -V- Henderson 15 N.C. 15, 25 Am Dec 677, Also see:

STATUTES THAT Violate The PLAIN And obvious Principles of Common Right And Common REASON ARE Null And Void: BENNETT -V- Boggs 1 Baldw CO.

The STATE CANNOT Dimish The Rights of The People. WAS The Ruling IN: HEETADO -V- CALIFORNIA 110 US 516

And AS A matter of Due Process An offender, may NOT Be sentenced ON The BASIS of mistaken FACTS OR UNFOUNDED ASSUMPTIONS: TOWNSEND -V- Burke 334 US 736 740-741 1948 - The REASONING of The Dist Ct Allows A STATE To Deprive A Citizen IN CONTRADICTION of This Ruling.

Indeed If Congress intended To preclude Judicial Review of The CONSTITUTION OF A STATUTORY Procedural scheme, THAT would likely Raise A Sub-STANTIAL Question Concerning The Constitution of The STATUTE itself. *Weinberger - v - Salfi* 422 US 749 762 45 LEd 2d 522 95 S.Ct. 2457. is IN ContrADiction With The Dist. Cts. Ruling Allowing A Post-Deprivation LAW Violate Several Constitutionally Protected Rights And Immunities, By NOT Allowing Review of The Rights Violation. IT IS A LAW THAT Helps Protect The ACTS of The Deprivations And Violations.

And Several Cases have Refused To Read statutory finality Provisions To Preclude Review of Constitutional Claims. SEE *Johnson - v - Robison* 415 US 361 373-74 39 LEd 2d 389 94 S.Ct. 1160. *Rosen - v - Walters* 719 F.2d 1422 1423 (9th Cir 1983). *Parodi - v - Merit Systems Protection Bd.* 702 F.2d 743 745-49 (9th Cir). *Humana Inc - v - Califano* 191 US App. D.C. 368 590 F.2d 1070 1080-81 (D.C. Cir 1978). *Trinity Memorial Hospital Inc - v - Assoc. Hospital Serv Inc.* 570 F.2d 660 665 667 (7th Cir). *Ralpho - v - Bell* 186 US App. D.C. 368 569 F.2d 607 620-22 (D.C. Cir).

AS Also stated in *Califano - v - Sanders* 430 US at 109 - AND IN *Allen - v - Faragasso* 585 F.Supp 1114 1118 n.3 (N.D. Cal) - We do NOT Read The STATUTE To TAKE The EXTRAORDINARY STEP of foreclosing Jurisdiction over CONSTITUTIONAL CLAIMS.

By READING *Wynehamer - v - Ppl* 13 NY 378 1856 NY Lexis 61. IT SAYS - IF such Arguments CAN Be Allowed To subvert The funda-mental Idea of Property, Then There is NO Private Right ENTirely SAFE Be-CAUSE There is NO limitation Upon the Absolute Discretion of The Legislature And The Guarantees of The CONSTITUTION Are A mere WASTE of Words.

Due Process of law Imports A Judicial Trial And NOT A mere Declaration of Legislative Will by the PASSING of A LAW. *Taylor - v - Porter* 4 Hill 140. *Embury - v - Conner* 3 Coms 511 ARE The Decisions made in The Understanding of The CONSTITUTION And Common law.

When One man WANTS The Property of Another, The Legislature CAN NOT Aid Him in MAKING The ACQUISITION. *Powers - v - Bergen* 2 Seld 358 - And THAT MEANS The sheriffs Dept. And OR STATE.

And it is said - without Judicial Investigation, without Due Process of law, NO ACT of Legislation CAN Deprive A man of his Property, And THAT in Civil CASES AN ACT of The Legislature Alone is wholly Inoperative To TAKE from A MAN his Property. *Westervelt - v - Gregg* 2 Keen 202.

Even in *Carter - v - Carter Coal Co* 298 US 238 it WAS said That A Legislative ACT CONTRARY To The CONSTITUTION is NOT law.

And NO Public Policy CAN Be Allowed To override The positive Guarantees of The U.S. CONSTITUTION. 16 AM Jur 2d CONSTITUTIONAL LAW SECTION 20.

Economic Necessity CANNOT Justify A disregard of Constitutional GUARANTEES. *Riley - v - Carter* 79 ALR 1018. 16 AM Jur. 2d CONSTITUTIONAL LAW SECTION 381

IN SO FAR AS A Statute Runs Counter To The Constitution is Not LAW of The LAND. IT IS Superseded Thereby: 16 Am Jur. 2nd 177 Ldte Am Jur. 2nd 256.

CONSTITUTIONAL RIGHTS CAN Neither be nullified openly & directly By State Legislatures OR STATE EXECUTIVE OR JUDICIAL officers OR Nullified Indirectly by Them Through EVASIVE Schemes whether Attempted Ingeniously OR INGENUOUSLY: Smith-V-Texas 311 US 128 132. WAS The Ruling.

And Chief Justice TANEY Speaking For A UNANIMOUS Court in 1859 said THAT The Requirement of The OATH AND BOND TAKEN Pursuant To ART. VI cl. 3 To Support The Constitution for The United STATES, Reflect ed The FRAMERS ANXIETY To Preserve The CONSTITUTIONS Power in full force IN All its Powers And To GUARD AGAINST RESISTANCE To, OR ENVIASION of ITS Authority ON The Power of The STATE: See ALSO: ABLEMAN-V-Booth 21 How 506 524, - 62 US 506 16 L. Ed 169

AS We READ: Webster-V- Reproductive Health services 492 US 514 109 S.Ct 3040 106 L. Ed 2d 410 1989; Frisby-V-Schultz 487 US 474 108 S.Ct 2495 101 L. Ed 2d 420 1988 - Affirming THAT A STATUTE CAN Violate Proced-URAL Due Process Rights AS Applied if The Notice And opportunity To be heard either Were Not Provided To The Plaintiff OR Their Provision WAS INADEQ UATE. BASED UPON The Well ESTABLISHED Principal THAT STATUTES will be in-terpreted To Avoid CONSTITUTIONAL Difficulties.

The CONSTITUTION And The laws made in Pursuance Therefore Are Sup reme, They Control The CONSTITUTION And laws of The Respective states And Cannot be Controlled by Them." SEE McCulloch - V-MARYLAND 17 US 316

With The Arguments Above That supports The main Purpose of The REASON why The District Ct erred in its Decision saying THAT IT IS OKAY To MAKE A law THAT Violates Federal Constitution, STATE CON STITUTION, And STATE STATUTES, AS LONG AS The Post-Deprivation is Ad-EQUATE. And The Post Deprivation WAS NOT ADEQUATE BECAUSE it did NOT Return The money. But The Dist. Ct. SAID it is lawful To Keep The money since I WAS found Guilty. So IT WAS OKAY To Violate These follow ING LAWS BECAUSE I WAS found Guilty. And Because The Amount TAKEN WAS SMALL so The Courts Do NOT have To Consider The deprivations And Violations AS A Whole. Below I will address The LAWS And CONSTI-TUTIONAL Violations THAT The Post-Deprivation Remedy Ruling Violates IN its Holding.

(a) The Balancing Test established By The Supreme Court IN: ~~MATTHEWS~~ MATTHEWS-V-ELDRIDGE 424 US 319 335 - stating Any Booking fee CAN only be levied following Criminal Prosecution Because it is A Criminal fine And Therefore, Punishment.

(b) The Supreme Court had To determine Under The 8th Amendment excessive fines clause, whether forfeitures Are fines THAT Are Punitive IN NATURE, And The COURT Reminded The Government THAT The Excessive fines clause limits

The Governments Power To Extract Payments whether in CASH or Kind, AS Punishment for some offense: see United STATES - V - BAJAJAN 524 US 321 324 ÷ U.S. Constitution 8th Amend.

(c) Allen - V - Leis 213 F. Supp 2d 832 - And Roehl - V - City of Naperville 857 F. Supp 2d 707 717 (N.D. ILL 2012). STATING "NO Government ENTITY CAN Impose A Criminal fine Based only on Probable Cause".

(d) The Supreme Court has found That "money" CONSTITUTES "Property" for Purposes of Applying The TAKINGS clause: Phillips - V - Wash legal fund 524 US 156 1998 ÷ United STATES - V - Sperry Corp 493 US 52 62 n.9 1989 ÷ Webbs fabulous Pharmacies INC - V - Beckwith 449 US 255 1980.

The Supreme Court Also found That Economic Regulations Involving The Appropriation of money CAN EFFECTUATE A Violation of The TAKINGS clause, when The Government Directly Appropriates Private Property for its own use. E. Enters - V - Apfel 524 US 498 1998.

Economic Regulations That went Too FAR in interfering With Property Rights would be A TAKING: PA. Coal Co - V - MAHON 260 US 393 415

The TAKINGS clause of The 5th Amend. is made Applicable To The STATES Through The 14th Amend. ÷ Dolan - V - City of Tigard 512 US 374 383 (1994).

(e) if A STATE MAKES an increase in A Authorized Punishment Contingent ON The finding of A FACT, THAT FACT - NO MATTERS How The STATE LABELS it - MUST Be found By A Jury Beyond A Reasonable Doubt: See Booker 543 US 231-32 Quoting Ring - V - Arizona 536 US 584 602.

IN Southern Union Co - V - United States 132 S.Ct 2344 2350-51 2357 (2012) - The Supreme Court has Applied The 6th Amend Right To every Aspect of Punishment Including Criminal Fines.

An Individuals Private Interest in his Property, Including money is A Constitutionally Protected Right, Even for SMALL Amounts. And The Possibility of Mistaken deprivation is quite Large, As The Arrest is The only Subjective decision That necessitates The fine.

This Violates The 6th Amend. Right To have All Punishment decided By A Jury. ONLY A Jury MAY Impose OR Increase Punishment ON offenders: ~~BLAKE~~ KY - V - Washington 542 US 296 300 318 And Also Apprendi - V - New Jersey 536 US 466 494.

Prison officials MAY NOT simply TAKE money out of A Prisoners Account without NOTICE OR HEARING: ARTWAY - V - Scheideman tel 671 F. SUPP 330 337 D.N.J 1987 ÷ STATE - V - O'CONNOR 171 Ariz. 19 827 P.2d

480 484-85 Ariz App. 1992.

IN MANY CASES YOU WILL NEED ONLY TO ASSESS THAT PRISON EMPLOYEES WERE NEGLIGENT IN LOSING OR DAMAGING YOUR PROPERTY: MARSHALL-V-NORWOOD 741 F.2d 761 763 5th Cir Louisiana STATUTE & LOFTON-V-THOMAS 681 F.2d 364 365 5th Cir-Texas,

(f) C.R.S.A. 16-18-101 - COSTS IN CRIMINAL CASES. (1) The costs in criminal cases shall be paid by the STATE pursuant to C.R.S.A. 13-B-104 when the defendant is acquitted or when the defendant is convicted and the "COURT" (NOT the sheriff's) determines he is unable to pay them

Arrest PART of Preliminary Hearing: Bd of Cnty Comm's -V- CAMP 48 Colo 61 108 P. 972 1910: Ppl-V-Lowe 60 P.3d 753 Colo App. 2002.

Section protects defendant. The provisions of this section are wise and beneficent. They extend ample protection to an indigent defendant. They afford him every facility for making a legitimate defense. Bd of County Comm's -V- Wilson 3 Colo App. 492 34 P. 265 1893

NOTE: The Dist. Courts Ruling of Post-Deprivation Remedy totally violates this section of the Colorado Revised Statute. And the Federal Supreme Court Ruling in:

Bearden-V-Georgia 461 US 660 668-69 672-73 (1983). A Bearden Hearing determines an offenders ability to pay and is supposed to come with the representation of counsel.

C.R.S.A. 18-1.3-702 - Monetary Payment, Due Process Required Subsection (4) for the purposes of this § a defendant or his dependents are considered to suffer undue hardship... In determining whether a defendant is able to comply with an order to pay a monetary amount without undue hardship to the defendant or his dependents the court shall consider the provisions in subsections (a) (b), (c), (d), (e), (f), (g), (h) of section (4).

The general rule as to payment of costs may be avoided if the Trial Judge, in his discretion, determines that the defendant is unable to pay the costs: Ppl-V-Fisher 189 Colo. 297 539 P.2d 1258.

C.R.S.A. 16-18.5-104 - Initial Collections Investigation. (1) The defendant who cannot pay restitution, the court shall direct that a report immediately to the collections investigator

FINAL NOTE: The Deprivation/Takings of Private Property (money) before any judgment or before any hearing for indigent does not only violate the Federal Law and Constitution but also state law and constitution, so a Post-Deprivation Remedy is in conflict with all laws and constitutions state and federal.

6 IN my final Argument I believe That The Dist. Ct. And The COA. ERRED IN NOT Protecting NOT only mine BUT ALL citizens of COLORADO And Any People who Travel Through This STATE of CONSTITUTIONALLY PROTECTED RIGHTS, Immunities, And Privileges. A Judge is Supposed To Protect our Rights And Know The LAWS. SEE;

The Court is To Protect Against Any ENCROACHMENT of Constitutionally Secured Liberties: *Boyd-v-U.S.* 116 U.S. 616

The Duty of The Court is To Insure The CONSTITUTION is Constructed IN FAVOR of The Citizen: *BYARS-v-U.S.* 273 US 28.

No state Legislator OR Executive OR Judicial officer CAN WAR Against The CONSTITUTION without Violating his Undertaking To Support it. *Cooper-v-Aaron* 358 U.S. 1 78 S.Ct 1401 1958.

The Duty Rests on ALL Courts, state And Federal To Guard, Protect, And Enforce Every Right GUARANTEED by The Constitution: *Smith-v-O'Grady* 310 US 329; *Grady-v-NATIONAL Solid Waste Management ASSOC.* 505 US 88; *U.S.-v-City And County of Denver* 916 F.Supp 1058.

Whenever The Judicial Power is Called into Play, IT is Responsible Directly To The Fundamental LAW And No other Authority CAN intervene To force OR Authorize The Judicial Body To DISREGARD it. *YAKUS-v-U.S.* 321 US 414.

Citizens Are The members of The Political Community To which They Belong. They Are People who Compose The Community And who in Their Associated Capacity, have established OR submitted Themselves To The dominion of A Government for The Promotion of Their GENERAL Welfare And Protection of Their Individual As Well As Their collective Rights: *Boyd-v-Nebraska* 143 US 135; *United STATES-v-CRAIKSHANK* 92 US 542 549.

No higher Authority Rests Upon This Court Than To Exert its full Authority To Prevent All Violations of The Principles of The CONSTITUTION for The U.S.: *Downs-v-Bidwell* 182 US 244

All Laws Repugnant To The CONSTITUTION Are Null & Void: *Marbury-v-Madison* 5 US 137 174 176.

A LAW That Impinges Upon A Fundamental Right explicitly OR implicitly Secured By The CONSTITUTION is Presumptively UNCONSTITUTIONAL: *Mobile-v-Balden* 446 US 55 76; *Harris-v-McRAE* 448 US 297 312.

STATE STATUTES DO NOT TAKE Precedence over CONSTITUTIONAL LAW: *James-v-Kentucky* 466 US 341 80 L.Ed 2d 346 104 S.Ct 1830 1984.

Court Proceedings must Be within CONSTITUTIONAL Provisions has Been forcefully ESTABLISHED By The Supreme Court: *Smith-v-U.S.* 360 US 1; *Muskiet-v-United STATES* 219 US 346

Your Rights MUST BE INTERPRETED IN FAVOR of The Citizen *Scheuer-v-Rhodes* 416 US 232 EXPOUNDS UPON *OWEN BYERS-v-U.S.* 273 U.S. 28

IT Falls with The Premise To deprive A Citizen of his

ONLY Effective Remedy Would NOT only Be Contrary To The Rudimentary demands of Justice, But Destructive of A Constitutional Guaranty Specifically designed To Prevent INJUSTICE: *MONEY - V - HOLAHAN* 294 US 103 113.

The Supreme Court made it clear Years Ago That A state official who VIOLATES THE CONSTITUTION IS STRIPPED of his official OR Representative Character And IS subject IN his Person To The Consequences of his Individual Conduct Even if The official is ENFORCING A STATE STATUTE: *EX PARTE Young* 209 US 123 159-60 1908.

STATE officials OR Employees who violates The Constitution CAN Be Sued for DAMAGES IN his Individual Capacity REGARDLESS of whether his Actions were Pursuant To STATE Policy OR were PART of The JOB: *McLO - V - HAFER* 912 F.2d 628 636 7 3d 90; *FARID - V - Smith* 850 F.2d 917 920-923 2d Cir 1988.

CLOSING: By The Understanding of The Context of The CASES Presented I feel That The Courts have NOT Protected MY Rights NOR The Community AS A Whole. My Claim has Been Ruled frivolous And Shoved Under The Rug AS AN ATTEMPT To dissolve This MATTER So That The STATE AND COUNTIES of Colorado CAN Keep on depriving its Citizens of millions of Dollars Without ANY Recourse. I HAVE A CONSTITUTIONAL Claim With Supporting LAWS And Rights And I feel That The Courts Need To Protect Them.

All That HAS GONE Before is NOT To be ignored AS IRRELEVANT: *BROWN - V - ALLEN* 344 US 500

[F]

Relief Requested

- (i) The Relief I Request IS THAT The Supreme Court MAKE Sure THAT me AND Every Citizens Rights ARE Protected IN This MATTER To MAKE Sure This illegal Deprivation Ceases.
- (ii) To Remand BACK To District Court With A chance To Amend The Complaint.
- (iii) To have The STRIKES for frivolous Been stricken from The Record
- (iiii) To Have Counsel Appointed To Represent me in The future of This Proceeding.
- (iiiii) To MAKE sure All Counties STOP Collecting This unlawful fee.

Daniel Wayne Robinson