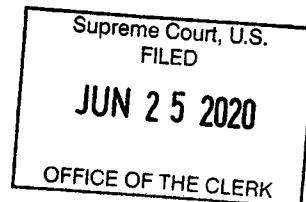


No. 20-5608

**ORIGINAL**

IN THE  
SUPREME COURT OF THE UNITED STATES



Michael J. Besoyan — PETITIONER  
(Your Name)

vs.

Jimmy Lee et,al. (disputed trial court entry) — RESPONDENT(S)  


ON PETITION FOR A WRIT OF CERTIORARI TO

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)  
Ninth District Court of Appeals

PETITION FOR WRIT OF CERTIORARI

Michael J. Besoyan  
(Your Name)

2945 Bell Rd. #131  
(Address)

Auburn, Ca. 95603  
(City, State, Zip Code)

775 210-1300 530 210-9137  
(Phone Number)



06-10-00

## QUESTION(S) PRESENTED

Whether any court or tribunal should

be allowed to deny or deprive any citizen of basic rights listed in the Bill of Rights and the 14th Amendment even if enacted by congress as in :

*Pursuant to 28 U.S.C. 1915(e) a federal court has authority to dismiss a civil rights case of an IFP pro se litigant sua sponte if the action or appeal is "frivolous or malicious", 28 U.S.C. 1915(e)(B)(I); fails to state a claim on which relief may be granted, 28 U.S.C. 1915(e)(B)(ii), or seeks monetary relief against a defendant who is immune from such relief. Normally, after a defendant is served, a defendant must timely file an answer with affirmative defenses or*  
***In IFP cases, the court must serve the defendant.***

Whether discrimination is a civil rights violation against self represented litigants that file in the United States District Courts that are denied Due Process and Equal Protection when the court dismisses a case before the defendants are served . Thus depriving a citizen of basic access to liberty and justice allowing states to plunder and usurp land and possessions of unfairly disfavored citizens.

Whether the fundamental right of a jury trial can legally be denied if a case clearly IS NOT frivolous or without merit even if the lower courts mistakenly label the case as such followed by unwarranted dismissal.

**Whether pursuant to Rule 4 (c)(3) FRCP....RE service to defendants.**

**When the court does not serve defendants, as required by law, then dismisses the case YEARS later, is grounds to deny a litigant, of any class, meaningful access to the judicial system when seeking damages for civil rights violations. If so that is an opportunity for lower governmental entities to abuse it's citizens without recourse leaving abused citizens without a remedy for their losses.**

**It also removes any meaningful settlement agreement after a governmental entity accepts any wrong doing.**

**Whether after a citizen's land and all possessions are usurped it qualifies as cruel under the 8th**

**"The Eighth Amendment's Excessive Fines Clause is an incorporated protection applicable to the States under the Fourteenth Amendment's Due Process Clause," Ginsburg said. Justice Clarence Thomas and Neil Gorsuch agreed with the main ruling, but they said the 14th Amendment's Privileges or Immunities Clause was the controlling factor in the case."**

Whether orders and judgments are void if not affixed with the court seal

~ 06-10-00

## LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[x ] All parties **do not** appear in the caption of the case on the cover page. A list of all parties of the proceeding in the court whose judgment is the subject of this petition is as follows:

NOTE: major confusion for myself exists as the District court provided the Appeals court with the the defendant list that I published in the original complaint dated 1-8-2016, however The defendant list and the case caption published with the original complaint was dismissed in favor of the first amended complaint. The information that I published for the first amended complaint is significantly changed when compared with that of the original complaint

*Amended Complaint from the web site of*

*United States District Court Eastern District of California*

*...If you file an amended complaint. It must be captioned as an "Amended Complaint."*

*...An amended complaint entirely replaces the original.*

*...An amended complaint does not just add to the first complaint. An amended complaint entirely replaces the original complaint.*

*Therefore, an amended complaint must include those portions of the original complaint that are necessary, while adding the new material to be considered.*

THE DEFENDANTS WERE NOT SERVED. THE WRONG LIST WAS USED IN BOTH DISMISSALS VOIDING THE ORDERS. this also makes proof of service declarations not possible.

## RELATED CASES

United States District Court for the Eastern District of California 2:16-CV-00046-KJM-EFB

United States Court of Appeals For The Ninth District

19-16598

- 05 - 10 - 00

**TABLE OF  
CONTENTS**

IFP.....	1-7
QUESTIONS PRESENTED.....	8
OPINIONS BELOW.....	12
JURISDICTION.....	13
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED .....	13-14
STATEMENT OF THE CASE .....	15
REASONS FOR GRANTING THE WRIT .....	16-17
CONCLUSION.....	17

**INDEX TO APPENDICES**

APPENDIX A Ninth District Court of Appeals motion reconsideration

APPENDIX B Ninth District Court of Appeals denial of reconsideration for rehearing

APPENDIX C

See appendix table of contents enclosed per clerks letter dated 6--30-2020



-06-10-00

## TABLE OF AUTHORITIES CITED

### CASES

From: The Fordham Law Review

"Meaningful access to the courts is a fundamental constitutional right Derived from the first amendment, and the due process clause of the fourteenth amendment, the right protects a litigant's interest in using the judicial process to attain redress of grievances."

For pro se litigants the right guarantees all the means necessary to

ensure an adequate hearing on all alleged grievances."( explain why the case was closed )

The importance of the right of access has long been recognized by the SupremeCourt. See, e.g., Chambers v. Baltimore & Ohio R.R., 207U.S. 142, 148 (1907

In a "motion to dismiss, the material allegations of the complaint are taken as admitted". From this vantage point, courts are reluctant to dismiss complaints unless it appears the plaintiff can prove no set of facts in support of his claim which would entitle him to relief (see Conley v. Gibson, 355 U.S. 41 (1957))

(1) 'courts must, . . . , accept all factual allegations in the complaint as true'; (2) 'courts must consider the complaint in its entirety, ...as well as other sources courts ordinarily examine when ruling ...

### STATUTES AND RULES

Civil litigants have a statutory right to proceed pro se under 28 U.S.C. § 1654. A liberal construction of the pleadings enables a court to assess the nature of the interests at stake.

### OTHER

In a unanimous decision, the Supreme Court has chipped away at the odious practice of civil asset forfeiture. The decision is potentially a major victory for property rights and civil liberties. The key questions before the Court are whether the Excessive Fines Clause of the Eighth Amendment is "incorporated" against state governments and, if so, whether at least some state civil asset forfeitures violate the Clause. The justices answered both questions with a unanimous and emphatic "yes." As a result, the ruling could help curb abusive asset forfeitures, which enable law enforcement agencies to seize property that they suspect might have been used in a crime – including in many cases where the owner has never been convicted of anything, or even charged. Abusive forfeitures are a widespread problem that often victimizes innocent people and particularly harms the poor. ... the Court...previously ruled that the Fourteenth Amendment incorporates nearly all of the rest of the Bill of Rights against the states, including the Excessive Bail and Cruel and Unusual Punishment Clauses of the very same amendment. Justice Ruth Bader Ginsburg's majority opinion offers a good explanation of why incorporation of the Clause is easily justified under the Court's precedents.

(This morning, the Wall Street Journal opined favorably on the ruling.)

Police and prosecutors around America have long used asset forfeiture as a cash cow, but a unanimous Supreme Court ruling Wednesday should make them think twice. The Bill of Rights keeps paying dividends even after 228 years. ...Justices left and right agree. In her opinion for the Court, Justice Ruth Bader Ginsburg held that the safeguard on excessive fines, quoting earlier cases, is "fundamental to our scheme of ordered liberty" and "deeply rooted in this Nation's history and tradition." ...the Court's ruling in *Timbs v. Indiana* puts states and cities on notice. Some police departments have set annual targets for asset seizures, and a limiting legal principle has been nowhere to be found. During oral argument, Indiana's solicitor general said that if a driver in a Ferrari was going five miles over the speed limit, that could be grounds for police to take the car. ...defendants trying to protect their property against unjust state seizure will now have the Constitution firmly on their side. Unlike criminal asset forfeiture, there's no finding of illegal behavior in cases of civil asset forfeiture. Indeed, in many cases,

Local government steals the property of people who aren't even charged with a crime!

"Great, a big step forward but when will my family ever see justice

-04-10-00

IN THE  
SUPREME COURT OF THE UNITED STATES  
  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A&B to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

The opinion of the United States district court appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

☐ For cases from **state courts**:

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

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

## JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case  
w \_\_\_\_\_

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court  
of Appeals on the following date: 3-17-2020, and a copy of the  
order denying rehearing appears at Appendix C.

☐ An extension of time to file the petition for a writ of certiorari was granted  
to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date)  
in Application No.    A   .

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

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

-The Fourteenth Amendment secures the right to due process; the Eighth Amendment prohibits the use of cruel and unusual punishment. These rights can be violated by the use of force amounting to punishment (summary judgment). The person accused of a crime must be allowed the opportunity to have a trial and should not be subjected to punishment without having been afforded the opportunity of the legal process.

### Civil Applications

Title 42, U.S.C., Section 14141 makes it unlawful for state or local law enforcement agencies to allow officers to engage in a pattern or practice of conduct that deprives persons of rights protected by the Constitution or U.S. laws. . That's why it's a federal crime for anyone acting under "color of law" willfully to deprive or conspire to deprive a person of a right protected by the Constitution or U.S. law. "

*Defendants have Grossly, Willfully, wantonly, Unlawfully, Carelessly, Recklessly, Negligently, Intentionally, maliciously, Purposefully, and Discriminatingly Conspired to deprive Plaintiff of his Constitutional rights and They have Refused, neglected or Failed to Protect Plaintiff from said Conspiracy although they have been a position to do so.*

A judgment may not be rendered in violation of constitutional protections. The validity of a judgment may be affected by a failure to give the constitutionally required due process notice and an opportunity to be heard. Earle v. McVeigh, 91 US 503, 23 L Ed 398. See also Restatements, Judgments ' 4(b). Prather vLloyd, 86 Idaho 45, 382 P2d 910. The limitations inherent in the requirements of due process and equal protection of the law extend to judicial as well as political branches of government, so that a judgment may not be rendered in violation of those constitutional limitations and guarantees. Hanson v Denckla, 357 US 235, 2 L Ed 2d 1283, 78 S

-03-10-00

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and 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.

"Title 42, § 1983 of the U.S. Code provides a mechanism for seeking redress for an alleged deprivation of a litigant's federal constitutional and federal statutory rights by persons acting under color of state law. "

Punitive damages are available in a civil rights action under § 1983 when a defendant's conduct "is shown to be motivated by evil motive or intent, or when it involves reckless or callous indifference to the federally protected rights of others." Smith v. Wade<sup>46</sup> 1 U.S. 30, 56 (1983)

Private property is owned and controlled by private individuals. There is no monetary or proprietary interest that a government at any level has in controlling property belonging to a private individual. The property owner decides with whom he/she wishes to negotiate, procure a contract, dispose of or improve property. Jones v. Mayer Co., 392 U.S. 409 (1968). It has been described as the very essence of a scheme of ordered justice, Brock v. North Carolina, 344 US 424, 97 L Ed 456, 73 S Ct 349 and it has been said that without it, the right to private property could not be said to exist, in the sense in which it is known to our laws. Ochoa v. Hernandez y Morales, 230 US 139, 57 L Ed 1427, 33 S Ct 1033.

The court is to protect against any encroachment of Constitutionally secured liberties." Boyd v. U.S., 116 U.S. 616

Federal courts, have a "constitutional obligation" to safeguard personal liberties and to uphold federal law." Stone v. Powell 428 US 465, 96 S. Ct. 3037, 49 L. Ed. 2d 1067.

The Supreme Court ruled that "Municipalities cannot exert any acts of ownership and control over property that is not OWNED by them ", see Palazzolo v. Rhode Island 533 US 606, 150 L.Ed. 2d 592, 121 TS.Ct. \_\_\_\_ (2001)

The rights in property are the basic civil rights has long been recognized. Congress recognized these rights in 1871 when it enacted the predecessor of 42 U.S.C. 1983 and 1343(3). We do no more than reaffirm the judgment of congress today." Lynch v. Household Finance Corp., 405 U.S. 538 (1972). In Hardesty v, Sacramento county relief provided under the 14th amendment was verified by the jury for the very same PATTERNED unconstitutional abuses that the same county forced on me by policy. It gets in their blood, and continues forward to next generation directors.

***from request for reconsideration dated 1-8-2019 to D.C."I think a judicial chief of the District Courts should read every word of the complaint and exhibits before I'm launched into the depths of appeal requirements. There may be no oversight function that I request, but getting tossed to the 9th for an appeal would just support more distance between living under Liberty once again or remaining right less, beat down, humiliated and agonized. If not reopened, please send the appeal documents."*(no forms were received, allowing doubt that the request was read.)**

← 03-10-00



## STATEMENT OF THE CASE

In the county of Sacramento California, I battled for 10 long years managing to stop the "power to sell" attacks 9 times. The county prevented us from rebuilding our home after the fire, 3-21-2004, using fraudulent liens and grossly inflated values. The Assessor and tax collector with the consent of the untouchable Board of Supervisors grossly overvalued my 40 year property for 10 years preceding the unlawful sale. Amounts demanded, after the home was lost to arson, were fraudulently increased by over 2000%. (proof in complaint) As a result of the counties conspired malfeasance, they demanded 52,000.00 USD, however only 3800.00 was due on the remaining land. After decades of unconstitutional activity, on 2-24-2014, the county sold our, paid in full, 40 year property at a public auction that I was not allowed to attend. Conspiracy, corruption and a total disregard for the law put me on the street, my family dismembered. In July of 2015 I was removed by a para-military force of 50 officers with full air support. Over 100,000.00 USD of remaining business and personal assets was stolen from us after being promised that we would be able to keep all of our possessions. The tax collector, herself, forged easement documents with the county recorder, for my 40 year property, to favor the counties' fraudulent deed conveyance. FACT; The county, in the same time period, has been exposed to public scandal and high dollar awards in federal court for their continued disregard for federal and state constitutional law contributing to their unlawful customs that abuse citizens for county financial gain.

After 4 very difficult years in the federal district court my case was dismissed. The 50 + county actors were never served as required by law. My right to a jury trial was laughed at and the extreme abuses and deprivations of the Bill of Rights and the 14th Amendment continued for over a decade forced over us and backed by an incredible showing of law enforcement and "police powers". I was never charged or indicted for a crime in my entire life. I took my case to the the ninth circuit court of appeals that was denied, leaving me only an action in the Supreme Court which is known to take on less than 1 % of cases filed. My family represents a class of Americans, treated shamelessly, that cannot access the courts for protections of inalienable guaranteed Constitutional Rights.

There it is. Worked a lifetime to gain, then a second lifetime to be kicked and shattered with all LIBERTIES' USURPED. All of our hopes, freedoms, legacy and assets were stolen by force against our free will.

Government's only purpose is to protect the rights and property of the citizens....

### DEMAND and Declaration Michael J. Besoyan, Plaintiff-Appellan

No.19-16598 D.C. No. 2:16-cv-00046-KJB-EFB

seriously doubt that congress intended to direct the USDC and the U.S. Court of Appeals to block a citizen's path to seek damages for blatant Constitutional deprivations by focusing only on format and grammar. I have been patient and tried using all the skills that I possess to comply with the rules. Over FOUR YEARS since filing and 1000's of hours of research is swept away after facing the results of years of intentional stealthy encroachments of my inalienable Constitutional and HUMAN RIGHTS rights by the defendants. If these rights are "inalienable, not transferable to another or not capable of being taken away or denied" Then the court must proceed on my pleadings. A liberal reading in my favor has not occurred. It does not take a legal professional to deduce the clearly stated facts that I have plead. The abuse and unfair treatment that my family has endured is plain and simple to see and feel. My pleading form indicates FACT. Our LAND AND THE BALANCE OF OUR POSSESSIONS WERE TAKEN FROM US BY ACTORS USING POWERS ONLY GRANTED BY COLOR OF LAW. I could not state it with more clarity. My right to a jury trial, as stated in the 14th amendment, "shall be preserved" Targeted and disfavored litigants have the same equal rights as all Americans.

I demand that my Constitutional Rights are honored.

LIBERTY REQUIRED

Signed and dated: 11-5-2019 (added content 6-15-2020)

Michael J. Besoyan s/s

Michael J. Besoyan, Plaintiff-Appellant

- 02 - 10 - 00

All the factual pleading is contained within the first amended complaint and my requests for reconsideration in the District Court and the Ninth District Appeals Court.

## **REASONS FOR GRANTING THE PETITION**

### **THE AMERICAN DREAM.....Private property**

gives individuals a way of transforming their labor into usable wealth

Private property can only fulfill its function as a mitigator of tyranny if a landowner's rights extend beyond mere ownership. When an individual acquires a piece of property, he does not just obtain title over the physical real estate, but rather assumes a collection of rights that accompany the property and allow for its free use—what the law often describes as a “bundle of sticks.”

For example, a landowner possesses the right to exclude others and ward against trespass; he also possesses the right to actively use his property, convey it onto others, and hold it as collateral against other contracts.

Importantly, it is by exerting these accompanying rights that landowners redeem their property's true value and attain self-sufficiency since land, on its own, has little utility. Any attempt at appropriating or regulating these rights away without adequate compensation threatens to unjustly deprive property owners of their dignity, their livelihood, and their ability to realize their personal liberty.

As shown in this case an IFP-PRO SE litigant may indeed have a sound complaint for damages when their rights have been given no notice by state actors. These actors, knowing the law can deprive citizens of Constitutional Rights which can include the usurpation of personal liberties, earned assets and value by fraudulent means without any concern for the punishment prescribed for the violations. There are hundreds of laws that protect citizens, both state and federal, but at times, all too often, are in fact unreachable by an average citizen.

It is of National concern that citizens should be free from all encroachments of their rights and not be exposed to arbitrary unconstitutional acts by actors that possess an evil intent or personal dislike for an individual citizen or class of citizens.

The color of law and police powers must be held close to the limits that are guaranteed by the Constitution of the United States. The Judiciary must be committed to allow a deprived citizen to seek damages by way of a jury trial without the limitations that are seen in this case.

I am aware that the case load is heavy. Perhaps if the violators feared the consequences the work load would diminish dramatically.

- 02-10-00

California Constitution Article 1, section 9 Due

Process; Equal Privileges and Immunities:(a) A person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws. Due process means that anybody wishing to restrain property or file a protest against property of another, be it land, possessions, livestock, etc. must first put up a Bond to indemnify the lawful owner(s) for the takings, THEN go through the process of having the matter decided by a jury.

*THE EXTREME ABUSE SHOWN IN THIS CASE WILL CONTINUE TO DEMORALIZE HARD WORKING CITIZENS. EROSION OF LIBERTY AND THE AMERICAN WAY OF LIFE IS AT RISK. MY FAMILY HAS ALREADY PAID THE PRICE FOR THE VIOLATIONS. THE REQUIREMENT OF FORM THAT THE JUDICIARY HAS DEMANDED TO DISMISS THIS CASE IS ASTONISHING. A FAIR TRIAL BY A JURY AND THE RIGHT TO DEFEND OUR DULY STATED POSITION IS ALL WE ASK FOR. THE RIGHT TO ACCESS THE COURT SYSTEM AND TO BE HEARD IS A FUNDAMENTAL RIGHT. AN AWARD IS A PARTIAL REMEDY THAT IS CLEARLY ALLOWED BY CONSTITUTIONAL LAW WHEN A CITIZEN HAS BEEN DEPRIVED OF THEIR INALIENABLE RIGHTS. -MICHAEL J. BESOYAN*

## CONCLUSION


The petition for a writ of certiorari should be granted.

Respectfully submitted,

S/S Michael J. Besoyan *Michael J. Besoyan*

Michael J. Besoyan

Date: June 15, 2020

 VERIFIED BY POFFRE  
08/21/2020

- 01 - 10 - 20