

20-5900

IN THE SUPREME COURT OF THE UNITED STATES

FANE R. SELLERS and  
STEVEN BABCOCK,  
for and in behalf of all inmates,

Appellants  
(Petitioners),

v.

THE STATE OF WYOMING;  
GOVERNOR MATTHEW MEAD;  
ATTORNEY GENERAL FOR THE  
STATE OF WYOMING,  
PETER K. MICHAEL; and  
all entities acting for the State of Wyoming,

Appellees  
(Respondents).

Case No. \_\_\_\_\_

ORIGINAL

FILED

SEP 15 2020

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

PETITION FOR WRIT OF CERTIORARI  
WYOMING SUPREME COURT CASE NO. S-20-0109  
AND  
STATE OF WYOMING FIRST JUDICIAL DISTRICT COURT  
CASE NO. 188-643

COMES NOW, the Petitioners (Appellants), Fane R. Sellers, Steven Babcock, and all inmates in the State of Wyoming, to petition the Court for writ of certiorari in the Wyoming Supreme Court Case No. S-20-0109 and the State of Wyoming First Judicial District Court Case No. 188-643.

Respectfully Submitted this 15 day of September, 2020.



Fane R. Sellers Pro Se



Steven Babcock Pro Se

### Questions for the Court

- I. When the inferior District Court failed and/or refused to initiate or commence the action by issuing the summons as required by Wyoming Rules of Civil Procedure #3 and #4 then using other rule to eliminate the petitioners claim actions that effectively denies the Appellants' rights to access to the courts, due process, equal protection of the law, and to have an unbiased judge, did that Judge of the inferior Courts, *hold his Offices during good Behaviour*?
- II. Prior to the commencement of an action does the court have jurisdiction to use a court rule, only applicable to an open active action, such as a time bar, to dismiss the action that has not yet commenced?
- III. Does the right of the people to access to the courts and the right of the people to petition the Government for a redress of grievances apply only to those who can pay the court fees up front since the Wyoming Supreme Court has repealed Wyoming Rule of Appellate Procedure 10.07 "*In Forma Pauperis* [Repealed] Repealed April 6, 2015, effective July 1, 2015" and requires all court fees be paid before cases can be docketed?
- IV. Did the draftsmen of State and Federal Constitutions established an agreement or contract with the people to govern the people, provided rights were guaranteed to the people protected by dividing the powers of the government into three distinct departments to be a safeguard against the government or any department of the government to be party to deny, impair, or disparage rights due the people; and was such violations of that contract inconceivable, at creation of these Constitutions, that government officials or entities acting for a state would allow or be party to any such violation?
- V. What redress is available for the Appellants; when much like in George Floyd's recent murder, the Appellants had entities acting for the State of Wyoming showing a systemic

willingness to break established law and violate the Appellants' rights with no fear of investigation, arrest, prosecution, or even to be held to accountable by a civil court. These entities being allied with the County Prosecuting Attorney, the District Courts, and the Wyoming Supreme Court were shielded even when this was in contradiction with government officials' oath or affirmation of office. Even Governors (Mead & Gordon) and their Attorney Generals (Peter K. Michael & Bridget Hill) have refused to investigate reports of misconduct and malfeasance in office and the commission of a crime of a deprivation of rights by entities like the sheriff, his deputies, and the district attorney as Wyoming code 1-35-103, 1-35-104, and 9-1-605 (c) decrees?

VI. Should every person who, having knowledge that any of the wrongs have been committed, conspired to be committed, or, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act?

Fane R. Sellers #25665 and Steven Babcock #27869  
Wyoming Honor Conservation Camp  
P.O. Box 160  
Newcastle, WY 82701

**IN THE UNITED STATES SUPREME COURT**

FANE R. SELLERS  
STEVEN BABCOCK  
FOR AND IN BEHALF OF  
ALL INMATES

Appellants (Petitioners),

Vs.

THE STATE OF WYOMING,  
GOVERNOR MATT MEAD  
ATTORNEY GENERAL FOR THE STATE  
OF WYOMING, PETER K. MICHAEL, AND  
ALL ENTITIES ACTING FOR THE  
STATE OF WYOMING,

Appellees (Respondents).

CASE NO. \_\_\_\_\_

W.S.Ct. CASE # S-20-0109  
& District Court CASE NO. 188-643

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**PETITION FOR WRIT OF CERTIORARI  
WYOMING SUPREME COURT CASE NO. S-20-0109  
AND  
STATE OF WYOMING FIRST JUDICIAL DISTRICT COURT  
CASE NO. 188-643**

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**Appellants**

COMES NOW; the Appellants: Fane R. Sellers, Steven Babcock, and all inmates within the custody of the State of Wyoming in the United States or who have been in the custody of the State of Wyoming in the United States, who aver and attest to the following and all herein regarding this civil complaint having been victims of **Breach of Contract or Breach of Agreement.**

The Appellants are residents of the United States and reside in various states and counties.

### **Respondents**

The State Of Wyoming, Governors Matt Mead & Mark Gordon, the State Attorneys General Peter K. Michael & Bridget Hill, and All Entities Acting for the State of Wyoming involved in the Breach of Contract (the U.S. Constitution) and deprivation of rights therein.

The Wyoming State Attorney General: Bridget Hill  
State Capitol Building, Rm 23  
200 West 24<sup>th</sup> St.  
Cheyenne, WY 82002

Governor Mark Gordon  
State Capitol Building, Rm 124  
200 W. 24<sup>th</sup> St.  
Cheyenne, WY 82002-0010

### **List of Proceedings**

In the District Court for the First Judicial District, Laramie Wyoming (per Court Docket):

- Cover Page
- Title Page
- Copy of the Docket Entries
- Class Action Petition for Redress in the Act of Breach of Contract by the State of Wyoming, The State of Wyoming, Governor Matt Meade, Attorney General and All Entities Acting for the State of Wyoming; Filed 10/03/2017
- Civil Cover Sheet; Filed 10/03/2017
- Inmate Glover's Affidavit for Redress in the Act of Breach of Contract by the State of Wyoming and All Entities Acting for the State of Wyoming; Filed 10/03/2017
- Tombroek's Affidavit for Redress in the Act of Breach of Contract by the State of

Wyoming And All Entities Acting for the State of Wyoming; Filed 10/03/2017

- Objection; Filed 01/02/2018
- Motion for Ruling on In Forma Pauperis; Filed 03/01/2018
- Letter from Fane R. Sellers and Steven Babcock; Filed 03/05/2018
- Letter from Fane R. Sellers and Steven Babcock; Filed 03/13/2018
- Motion of Default Respondents Failed to Serve Answer to Class Action Petition for Redress In the Act of Breach of Contract Within the Sixty (60) Days; Filed 05/25/2018
- Memorandum in Support of Motion of Default Respondents Failed to Serve Answer to Class Action Petition for Redress in the Act of Breach of Contract Within the Sixty (60) Days; Filed 05/25/2018
- Copy of Certified Mail Receipts; Filed 06/11/2018
- Demand for Payment and Fulfillment of Contract; Filed 06/20/2018
- Certificate of Service; Filed 06/21/2018
- Memorandum of Understanding and Answer to Office of the Attorney General Letter to the Court; Filed 06/21/2018
- Letter to Honorable Thomas Campbell from Justin Daraie, Senior Assistant Attorney General; Filed 06/25/2018
- Statements of Financial Obligation; Filed 09/27/2018
- Invoice Number 100002; Filed 09/27/2018
- Invoice Number 110002; Filed 09/27/2018
- Invoice Number 200002; Filed 09/27/2018
- Statements of Financial Obligation; Filed 12/27/2018

- Invoice Number 200003; Filed 12/27/2018
- Invoice Number 100003; Filed 12/27/2018
- Invoice Number 110003; Filed 12/27/2018
- Order Dismissing Case; Filed 02/07/2019 (Note: just prior to this ruling the Petitioners filed with Board of Judicial Review because the Judge had refused to rule on the case for two full years and the Court had refused to issue summons required by Court rules, which violates Constitutional Rights to a speedy trial.)
- Motion for Hearing and to Refile Case No. 188-643 Due to Court Error in not Following Court Rules and the Constitution of the State of Wyoming; in Conjunction with a Motion for Hearing and a Motion for Immediate Issue of Summons; Filed 02/25/2019
- Memorandum to the Motion for Hearing and to Refile of Case No. 188-643 Due to Court Error in not Following Court Rules and the Constitution of the State of Wyoming; in Conjunction with a Motion for Hearing on Immediate Issue of Summons; Filed 02/25/2019
- Invoice Number 100004; Filed 03/25/2019
- Invoice Number 110004; Filed 03/25/2019
- Motion for the Mandamus for Specific Performance by State Officials; Filed 05/24/2019
- Memorandum in Support of Motion for Mandamus Against Sate Officials for Specific Performance; Filed 05/24/2019
- Bill No. 200005; Filed 06/18/2019
- Additional Evidence; Filed 07/22/2019
- Order Denying Defendant's May 2019 Motion; Filed 09/26/2019
- Order Denying Defendant's Motion for Mandamus; Filed 09/26/2019

- Notice of Appeal; Filed 10/11/2019
- Letter to Fane R. Sellers #25665 from Diane Sanchez; Filed 10/18/2019
- Letter to Fane R. Sellers from Patricia Bennett; Filed 02/19/2020
- Letter to Fane R. Sellers from Patricia Bennett; Filed 03/17/2020
- Letter to JoAnn Garcia from Office of the Attorney General; Filed 04/03/2020
- Letter to JoAnn Garcia from Patricia Bennett; Filed 04/29/2020

In the Supreme Court, State of Wyoming:

- Fane R. Sellers, Steven Babcock for and in behalf of all inmates v. State of Wyoming, Governor Matt Mead, Attorney General for the State of Wyoming, Peter K. Michael, and all entities acting for the State of Wyoming, case no. S-20-0109 (Order Dismissing Appeal on June 2, 2020)
- Fane R. Sellers, Steven Babcock for and in behalf of all inmates v. State of Wyoming, Governor Matt Mead, Attorney General for the State of Wyoming, Peter K. Michael, and all entities acting for the State of Wyoming, case no. S-20-0109 (Order Denying Petition to Reinstate Appeal on June 30, 2020)

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### **Orders Entered in Case**

In the District Court for the First Judicial District Court, Laramie, Wyoming:

- Order Dismissing Case; Filed 02/07/2019 (Note: just prior to this ruling the Petitioners filed with Board of Judicial Review because the Judge had refused to rule on the case for two full years and the Court had refused to issue summons required by Court rules, which violates Constitutional Rights to a speedy trial.)
- Order Denying Defendant's May 2019 Motion; Filed 09/26/2019

- Order Denying Defendant's Motion for Mandamus; Filed 09/26/2019

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### **Jurisdiction and Venue**

The United States Supreme Court has judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States. The United States Supreme Court has original jurisdiction and *revisory jurisdiction* in this case because it involves public Ministers, public Consuls, a state, and lesser courts.

### **Constitution of the United States Article III, Section 2., Clause 1. Subjects of jurisdiction**

*The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;-to all Cases affecting Ambassadors, other public Ministers and Consuls;-to all Cases of admiralty and maritime Jurisdiction;-to Controversies to which the United States shall be a Party;-to Controversies between two or more States;-between a State and Citizens of another State;-between Citizens of different States,-between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.*

**Constitution of the United States Article III, Section 2., Clause 2. Jurisdiction of Supreme Court**

*“In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the Supreme Court shall have original Jurisdiction.”*

**Constitution of the United States Article III, Section 1. Supreme Court and inferior courts--Judges and compensation.**

*“The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.”*

The Constitution is the Jurisdiction of this Court. *The Constitution is a synallagmatic Contract “mutual agreement” and “Civil law”.* A contract in which the parties obligate themselves reciprocally, so that obligations of the other. La. Civ. Code arts. 1908, 1911. A synallagmatic contract is characterized by correlative performances. The term synallagmatic Contract is essential, the civil-law equivalent of the common law’s bilateral contract. CF. commutative contract. Black’s Law Dictionary abridged ninth edition. (law) *In United States civil procedure, the contact required between a party and a state in order for the courts of that state to constitutionally assert personal jurisdiction over that party.* Wiktionary

**Title 28 Judiciary and Judicial Procedure, Part IV Jurisdiction and Venue, Chapter 85 District Courts; Jurisdiction, §1331. Federal question**

This is a civil action authorized by **Title 28 Judiciary and Judicial Procedure, Part IV: Jurisdiction and Venue, Chapter 85 District Courts; Jurisdiction, §1331. Federal question** and **Constitution of the United States, Article VI. Miscellaneous Provisions, Clause 3. Oath of office** as well due process and equal protection of laws such as Wyoming code subsection **1-3-105** Civil actions brought within the specified periods for any contract, agreement or promise in writing after the cause of action accrues: as defined by Wyoming code section 1-35-103,(b) A contract with the state of Wyoming includes any contract, lease or instrument in writing entered into by any board, officer or commission of the state of Wyoming for the benefit of the state whether the contract is made in the name of the state of Wyoming or in the name of the officer, board or commission.

**Constitution of the United States, Article VI. Miscellaneous Provisions, Clause 3. Oath of office**

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and *all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution;* but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

**Constitution of the United States Article I Section 10**

**Clause 1. Powers denied states--Treaties--Money--Ex post facto laws--Obligation of contracts.**

No State shall ...; pass any Bill of Attainder, ex post facto Law, or Law *impairing the Obligation of Contracts*, or grant any Title of Nobility.

**Date of Judgment(s) to be Reviewed**

In the District Court for the First Judicial District, Laramie Wyoming (per Court Docket):

- Order Dismissing Case; Filed 02/07/2019
- Order Denying Defendant's May 2019 Motion; Filed 09/26/2019
- Order Denying Defendant's Motion for Mandamus; Filed 09/26/2019

In the Supreme Court, State of Wyoming:

- Order Dismissing Appeal on June 2, 2020
- Order Denying Petition to Reinstate Appeal on June 30, 2020

**Date of Order(s) Respecting Rehearing**

In the District Court for the First Judicial District, Laramie Wyoming (per Court Docket):

- Order Dismissing Case; Filed 02/07/2019
- Order Denying Defendant's May 2019 Motion; Filed 09/26/2019
- Order Denying Defendant's Motion for Mandamus; Filed 09/26/2019

In the Supreme Court, State of Wyoming:

- Order Dismissing Appeal on June 2, 2020
- Order Denying Petition to Reinstate Appeal on June 30, 2020

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#### CASE OVERVIEW

**COMES NOW**, Fane R. Sellers and Steven H. Babcock, *pro se*, and files this Motion for Appeal on the basis of a miscarriage of justice as the inferior **District Court failed and/or refused to initiate or commence the action by issuing the summons as required by Wyoming Rules of Civil Procedure #3 and #4** while using other rule to eliminate the petitioners claim; an action that by rule had not been initiated or commenced making all actions and rulings mute. The inferior court actions dishonored the court rules and the Appellants' rights to access to the courts, due process, equal protection of the law, and to have an unbiased judge. The inferior court actions demonstrate they are not a credible judicial body in which can hold any community trust. The rules not followed by District Court were in advance of rules missed by the Appellants. The Wyoming Supreme Court refused to exercise its superintending control over the inferior court to correct the

aforementioned crimes by ordering the lower court, the Wyoming District Court to issue the summons and handle the case according to the court's rules and appropriately by appointing a different judge to hear the case and render rulings that do not further offend justice and the Constitution of the United States and the Constitution for the State of Wyoming. Only having superintending control over the Wyoming District Court, the Wyoming Supreme Court had no jurisdiction to canon on a case that had not been initiated or commenced.

In addition the Wyoming Supreme Court has unconstitutionally repealed Wyoming Rule of Appellate Procedure 10.07 "*In Forma Pauperis* [Repealed] Repealed April 6, 2015, effective July 1, 2015." This in effect closes access to the Court to the Appellants until after the filing fees were paid, making it next to impossible for a poor person (prisoners) to seek justice and redress within the Wyoming Judicial system which denies access to the Court and therefore violates the United States Constitution and the State of Wyoming Constitution.

### **Circumstances**

### **District Court**

The original complaint case no. 188-643, a class action petition for redress in the act of breach of contract by entities acting for the State of Wyoming, filed with the State of Wyoming District Court First Judicial District on October 11<sup>th</sup>, 2017 was never commenced because **the District Court failed and/or refused to initiate the action by issuing the summons;** that is a required document to make service of the action upon the defendants.

*"Strict compliance with the requirements of service of process is mandatory. Any omissions...that are required under W.R.C.P. 4 are fatal and such omission prevents the trial court from obtaining jurisdiction of the defendant. A judgment entered without proper service of the summons is void and subject to attack directly or collaterally. Without proper service of summons, a default judgment is void and must be vacated. Hoke v. Motel 6 Jackson & Accor N. Am., Inc. 2006 WY 38, ¶ 7, 131P.3d 369, 374 (Wyo. 2006)(citations*

omitted).”

Wyoming Rule of Civil Procedure #4 states: “Process.(a) Issuance of summons. *Upon the filing of the complaint the clerk shall forthwith issue a summons* to the plaintiff for service on the defendant.”

Wyoming Rule of Civil Procedure #3 “*the action shall be deemed commenced on the date when service is made*”.

“A summons is “the means of compelling a defendant to subject his person to the jurisdiction of the court from which the summons issues.” *Pease Brothers, Inc. v. American Pipe & Supply Company*, 522 P.2d 996, 1001 (Wyo. 1974) (quoting *State ex rel. Minihan v. Aronson*, 350 Mo. 309, 165 S.W.2d 404, 407 (Mo. 1942)). Strict compliance with the requirements of service of process is mandatory.” *In Interest of DG*, 825 P.2d 369, 377 (Wyo. 1992).

Therefore, nothing after the October 11<sup>th</sup>, 2017 filing has legally occurred because the summons has never issued by the clerk. Judge Campbell dismissing the case on February 7<sup>th</sup>, 2019 was improperly in two aspects: First the District Court’s log shows the appellants had made 4 substantial and bona fide actions of record towards disposition on December 27, 2018 only 42 days before Justice Campbell’s order for the dismissing of this case under Rule 203(c) U.R.D.C. claiming no substantial and bona fide action of record towards disposition had been made within 90 days. Second without a summons the case had not begun so the 90 day requirement under Rule 203(c) U.R.D.C. the 90 days was not in effect. Judge Campbell in this displays an alarming bias toward the Appellants and further, Judge Campbell has manifest a willful and wanton desire to violate the United States Constitution, due process of law. The District Court still has the burden to ensure the timely issuance of a summons to commence the action prior to making any order to dismiss under Rule 203(c). The 90 day time limit cannot begin to run until after the trial court commences the action and then rules upon it, regardless of what decision the trial court makes. Since the action had never commenced, the time limit cannot begin to run and there cannot be any legitimate ruling of a failure to meet a time limit.



A Motion for Rehearing to the District Court was filed on February 25th, 2019. Justice Campbell denied this motion claiming: “Petitioner’s motion was not properly served on the parties”. While accurate this action (proper service) was reliant upon, proper service requiring a summons that the District Court refused to issue. The Appellants (Petitioners) could not make a proper service of action since it was not in force and was being obstructed due to the clerk of court not issuing a summons to the plaintiffs upon the filing their complaint for service on the defendant, and the Judge and Clerk of Court conspired to deny due process of law by refusing to follow their own Court rules; ergo, the Appellees (defendants) have not yet been made a party to this action due to the clerk failing to follow the court’s own rules and service upon them for anything other than the complaint is not proper until after the summons has been issued. While the Appellees were named in the claim they are not yet a party to the action until service of summons was issued by the District Court. Without summons the Appellees were not compelled to subject themselves to the jurisdiction of the court and the litigation has yet to begin; there has only been a notification to the court and the Appellees that the Appellants want to begin a lawsuit. Until the action has commenced, there is no requirement of a service upon anyone other than the court and any communication between the Petitioners and the Court cannot be deemed as ex-parte communication because the case has not yet begun. The Petitioners had no choice but to communicate with the trial court in an effort to establish the case and entreat the trial court to commence the action via issuing the summons which they refused to do on multiple occasions thereby violating due process of law. If the summons was issued, then and only then, the Petitioners would be required to communicate with the Defendants beyond the original “Notice of Intent to Sue.” Justice Campbell held the Appellants to adhering to rules while Justice Campbell

and his clerk blatantly violated the Court rules themselves, showing willful and wanton direct violation of due process of law; the Petitioners, meanwhile, were reliant on timely issuance of a summons that has not happened, revealing bias toward the Appellants.

The District Court's failure to follow their own rules is a direct violation of the Constitution of the United States: Amendment 1, Amendment 5, and Amendment 14 Due Process of Law and Equal Protection. Such an action shows the District Court incapable of following their own rules, making them in complete violation of Due Process.

### **Wyoming Supreme Court**

The appellants' appeal original complaint case no. 188-643 filed appeal with the Wyoming Supreme Court on October 19<sup>th</sup>, 2019 case # S-20-0109 was never commenced because **the District Court failed and/or refused to initiate the action by issuing the summons**; that is a required document to make service of the action upon the defendants. Therefore, the Wyoming Supreme Court only has *revisory jurisdiction* or superintending control over the District Court however is deficient in original jurisdiction since the case has not yet commenced. Had the Wyoming Supreme Court made an honest comprehensive careful review of the file it would have discovered "no summons", "so no tolling of time", so W.R.A.P. 2.01: 2.02 is not germane. Thus a deficiency in jurisdiction the Wyoming Supreme Court's canon of dismissal on June 2<sup>nd</sup>, 2020; consequently mute, the Time Bar applied to dismiss the case is not applicable.

While the Wyoming Supreme Court duty was to exercise its superintending control (revisory jurisdiction) over the inferior court to correct the aforementioned critical errors by ordering the Wyoming District Court to issue the summons and handle the case according to the court's rules and appropriately by appointing a different non-bias judge to hear the case and render

rulings that do not further offend justice and the Constitutions. The Wyoming Supreme Court took no notice of the *precedence* of having no summons issued or how important it is to have the lesser Court follow the established court rules. Shall forthwith issue a summons is the duty of the Court since October 11<sup>th</sup>, 2017.

*Rules are intended to promote and not to obstruct administration of justice and thus enable court to do substantial justice rather than to decide cases upon technicalities* which have no relationship whatever to rights of parties to litigation. *Walsh v Connecticut Mut. Life Ins. Co.* (1939, DC NY) 26 F Supp 566

State Courts have not only the power but *a duty to enforce the rights* secured by these Constitutions and the laws of the United States when such issues are involved in proceedings before them. *Betts v. Easley* (1946) 161 Kan 459, 169p2d 831, 18 BNALRRM 2145, ICCHEPD 9611, 11 CCHLC 63207, 166 ALR 342.

Exhibiting a bias toward the Appellees, Justice Michael K. Davis the determining justice on this appeal to the Wyoming Supreme Court, had a duty to recuse himself, as requested by the Appellees, having presided over one of the named Appellees criminal cases. This is a due process violation of the Contract of the United States Constitution.

“Trial before unbiased judge is essential to due process.” *Johnson v. Mississippi*, 403 US 212, 29 L Ed2d 423, 91 S Ct 1778 (1971).

Continuing- violations doctrine is federal Law, under which a plaintiff may avoid the statute of limitations when the defendant has acted pursuant to a *pattern* or longstanding policy or *practice of Constitutional violations*. *Thomas v. Denny’s Inc.*, 111 F.3d 1506, 1514 (10<sup>th</sup> cir.1997)

The Appellees motion to proceed in *forma pauperis* has been ignored by the Wyoming Supreme Court as the same motion had been ignored by the District Court effectively closing the Court and denying justice to those without funds to pay the fee which abridge the privileges of Court and denies access to any poor person within the Court’s jurisdiction as provided for in the equal protection of the laws clause of the Constitution. The Appellees were unaware *forma*

*pauperis* had been repealed Wyoming Rule of Appellate Procedure 10.07 “*In Forma Pauperis* [Repealed] Repealed April 6, 2015, effective July 1, 2015” by the Wyoming Supreme Court. Only when the Appellees wrote the Wyoming Supreme Court looking for reason for delay and was told by Patricia Bennett, the clerk of the Supreme Court of Wyoming, a fee of \$195 had to be paid before the case could be docketed. The Appellees raised the funds and mailed to the Supreme Court of Wyoming a check for the \$195 only to have it returned without explanation. The Appellees changed the check and mailed to the District Court only to have it returned without explanation. The Appellees had a family member call Patricia Bennett, the clerk Supreme Court of Wyoming to find out why the fee had not been accepted. Patricia Bennett stated in a letter dated March 11, 2020 needing the \$195 in two checks; one for \$110 to Supreme Court of Wyoming and the second for \$85 to the District Court of the First Judicial District Laramie County. The Appellees paid as instructed. The Appellees still question the requirement of having paid the District Court of the First Judicial District Laramie County fee of \$85 *a second time* since having already paid the fee (in 2017) to the District Court before they would docketed our case. Neither court has answered the Appellees query.

By repealing options to proceed in *forma pauperis* the Supreme Court of Wyoming made an egregious error by defying the Constitution of the State of Wyoming (CSW), Declaration of Rights, 8. Courts open to all; suits against state applicable through (CSW) Declaration of Rights, 37 and the U.S. Constitution Amendment 14. This issue unaccompanied is of such importance that it necessitates the United States Supreme Court’s attention to address bias toward inmates and other poor citizenry.

The appellants submitted a Motion for Rehearing to Supreme Court of Wyoming quoting

for the appeal and restating the facts:

**(Quote)** “premature since this action has not yet been deemed commenced by the inaction of the First Judicial District Court in Cheyenne, Wyoming (hereinafter the court). Pursuant to Rule 3 “*the action shall be deemed commenced on the date when service is made*”. Service is effectuated when the summons issue by the clerk of court (hereinafter the clerk) has been served either in person (i.e. via Sheriff’s Department) or mail. The commencement of the action was blocked due to the clerk not issuing a summons to the plaintiffs upon the filing this complaint for service on the defendant; ergo, the defendants have not yet been made a party to this action due to the clerk failing to follow the court’s own rules and service upon them for anything other than the complaint is not proper until after the summons has been issued. Rule #4 states: “*Process.(a) Issuance of summons. Upon the filing of the complaint the clerk shall forthwith issue a summons to the plaintiff for service on the defendant.*” The clerk never issued the summons; therefore, the plaintiff could not serve the defendants and no ruling can be made until the clerk has begun the process by issuing a summons. Thus, the case has yet to be opened by the clerk of the court and any ruling is premature.” **(End of Quote)**

#### **Need for a Prosecution, a Defense, and an unbiased Judge**

An action is not deemed commenced and trial court jurisdiction does not exist to make a decision on a case until it has been opened via a summons. Without the summons being issued by Clerk of Court Diane Sanchez, the trial court is incomplete and any decision rendered is in excess of jurisdiction as a trial court is not complete until it has a prosecution, a defense and an unbiased trier of the facts.

“Trial before unbiased judge is essential to due process.” *Johnson v. Mississippi*, 403 US 212, 29 L Ed2d 423, 91 S Ct 1778 (1971).

“Due process clause guarantees litigants impartial judge, reflecting principle that no man is permitted to try cases where he has interest in outcome; where judge has direct, personal, substantial, or pecuniary interest, due process is violated.” *Franklin v. McCaughtry*, (2005, CA7 Wis) 398 F3d 955.

In the immediate case, the prosecution (your Petitioners) existed; however, the defense never existed as the trial court failed and/or refused to summons the Defendants into the action so they could come under the jurisdiction of the trial court and account for the accusations against them.

"A summons is "the means of compelling a defendant to subject his person to the jurisdiction of the court from which the summons issues." *Pease Brothers, Inc. v. American Pipe & Supply Company*, 522 P.2d 996, 1001 (Wyo. 1974) (quoting *State ex rel. Minihan v. Aronson*, 350 Mo. 309, 165 S.W.2d 404, 407 (Mo. 1942)). Strict compliance with the requirements of service of process is mandatory." *In Interest of DG*, 825 P.2d 369, 377 (Wyo. 1992).

Therefore, the trial court was incomplete and held no jurisdiction to render a decision on the case. Any decision rendered by the trial court before summons has been served is premature and an exercise of excess of jurisdiction by the trial court, which is prohibited by both, the Wyoming and United States Constitutions as well as ALL of the different courts' rules; and shows the trial court to be biased against the petitioners.

**United States Constitution Article 4, Clause 2. Supreme law.**

*"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."*

**Wyoming Constitution Article 1, §37. Constitution of United States supreme law of land.**

*"The State of Wyoming is an inseparable part of the federal union, and the constitution of the United States is the supreme law of the land."*

**Bias in the District Court's Closed to the Poor**

The Appellants provided the District Court sufficient evidence of injury done by the Appellees due their refusal to follow Wyoming State Statues and their Constitutional duties; combined with statements from the Appellees of this refusal.

The Wyoming Supreme Court has unconstitutionally chosen to close access to the Court to the Appellants until after the filing fees were paid by repealing Rule 10.07 the *forma pauperis* rule. Wyoming Rule of Appellate Procedure 10.01... *"In Forma Pauperis [Repealed] Repealed April 6, 2015, effective July 1, 2015."* This makes it impossible for a poor person to seek justice within the Wyoming Supreme Court when a district court, such as in the immediate case, neglects the

Constitution or its own rules to show prejudice against one of its litigants. This isolates justice to only those who have the funds to pursue litigation; creating an unconstitutional cast system, just like that of which the colonists rebelled against to create this Country.

The Appellees motion to proceed in *forma pauperis* has been ignored by the District Court effectively closing the Court and denying justice to those without funds to pay the fee which abridge the privileges of Court and denies access to any poor person within the Court's jurisdiction as provided for in the equal protection of the laws clause of the Constitution. By repealing options to proceed in *forma pauperis* the Court made another egregious error by defying the CSW, Declaration of Rights, 8. Courts open to all; suits against state (applicable through CSW 1 #37) and the U.S. Constitution Amendment 14. This issue unaccompanied is of such importance that it requires this Court's attention to address bias toward inmates and other poor people access to the courts.

#### **Bias in the District Court's Actions to Delay Justice**

Yet again bias is exposed as the justice in this case has not been administered without delay or denial. Since 11<sup>th</sup> day of October, 2017, the date the District Court received the Appellants' complaint, no summons has been issued the Clerk causing a delay of over 2 years, that is not "*forthwith*" as WRCP #4: *Process.(a)* demands. The denial then came of the Appellants' complaint. The complaint clearly provided evidence of injury done. Safeguard from both delay and denial by the District Court are protected rights under CSW, Declaration of Rights, 8 all courts shall be open and every person for an injury done to person, reputation or property shall have justice administered without sale, **denial or delay**. *Due Process* and equal protection of the law has not been provided by the District Court.

*Rules are intended to promote and not to obstruct administration of justice and thus enable court to do substantial justice rather than to decide cases upon technicalities which have no relationship whatever to rights of parties to litigation. Walsh v Connecticut Mut. Life Ins. Co. (1939, DC NY) 26 F Supp 566*

By failure to follow the rules Justice Campbell and his clerk obstructed justice and have recurrently violated the Appellants' rights when it was the duty of the District Court to protect and enforce those rights. This Court has a duty to:

State Courts have not only the power but *a duty to enforce the rights* secured by these Constitutions and the laws of the United States when such issues are involved in proceedings before them. *Betts v. Easley* (1946) 161 Kan 459, 169p2d 831, 18 BNALRRM 2145, ICCHEPD 9611, 11 CCHLC 63207, 166 ALR 342.

### **Violation of Judicial Oath and Violation of the Constitutions**

All judicial, state and county officers take and subscribe the following oath or affirmation (a contract): "I do solemnly swear (or affirm) that I will support, obey and defend the constitution ... of the United States, and the constitution of the state of Wyoming; that I have not knowingly violated any law related to my election or appointment, or caused it to be done by others; and that I will discharge the duties of my office with fidelity" (Wyoming Constitution Article (hereafter WCA) 6. Suffrage and Elections 20. Oath of office; form).

"Any person who shall be convicted of having violated said oath or affirmation, shall be guilty of perjury, and be forever disqualified from holding any office of trust or profit within this state" (WCA 6. Suffrage and Elections 21. Oath of office; how administered). No one is exempt from the law. The District Court Rules WRCP make clear that the duty of the clerk Diane Sanchez was to: "Upon the filing of the complaint the clerk shall forthwith issue a summons."

This did not happen showing Diane Sanchez did not discharge the duties of the clerk's office with fidelity in violation of oath or affirmation to that office, a breach of that contract. The overall responsibility of the court was Justice Thomas TC Campbell who knew or should have known the



administration of justice was being delayed and denied the case in the District Court in violation of the CSW A1 §8. *courts open to all*; suits against state bringing into question whether he discharged the duties of his office with fidelity. In light of his decision to deny the case based upon a failure to prosecute when the case had not yet been activated because of his clerk's failure to issue summons, he showed an active and deliberate role in an egregious error violating the rights of the Appellants and conspired with the Clerk and the Appellees to deprive those rights (Official Misconduct/Malfeasance); and therefore, knowingly chose to violate his oath of office.

“...all courts shall be open and every person for an injury done to person, reputation or property shall have justice administered without sale, denial or delay.” (The CSW, Declaration of Rights, 8. Courts open to all; suits against state).

The Appellees' motion for Rehearing (Reinstate appeal) to bring to the Wyoming Supreme Court warning of the *precedence* of having no summons issued and how important it is to have the lesser Court follow the established court rules without bias is mandatory to *establish jurisdiction*. Motion was denied June 30, 2020.

### **Constitutional Contract**

The draftsmen of State and Federal Constitutions established an agreement or contract with the people to govern the people, provided rights were guaranteed to the people. To institute and preserve the Government it was inconceivable that government officials would allow any violations of these rights much less be the party to deny, impair, or disparage rights due the people.

Three equal and distinct branches of the Government were formed to be a safeguard to defend the peoples' rights. The Appellants' complaint detailed how entities acting for the State of Wyoming to include Governors Matt Mead & Mark Gordon and the Wyoming State Attorneys General Peter K. Michael & Bridget Hill denied, impaired, or disparaged rights due the Appellants.

Much like in George Floyd's recent murder, the Appellants had entities acting for the State of Wyoming showing a systemic willingness to break established law and violate the Appellants rights with no fear of investigation, arrest, prosecution, or even to be held to accountable by a civil court. Being allied with the County Prosecuting Attorney and the District Courts was a shield to these entities wrong doing. With no accountability these entities acting for the State have been unchecked. Even Governors (Mead & Gordon) and their Attorney Generals have refused to investigate reports of misconduct and malfeasance in office and the commission of a crime of a deprival of rights by entities like the sheriff, his deputies, and the district attorney as Wyoming code 1-35-103, 1-35-104, and 9-1-605 (c) decrees.

A State is also responsible for private action when it has "exercised coercive power" over the challenge action or it has provided significant encouragement, either overt or covert, that choice must in law be deemed that the State. *Blum v. Yaretsky*, 457 U.S. 991 (1982)

## **Wyoming Constitution Article 2. Distribution of Powers**

### **1. Powers of government divided into three departments.**

The powers of the government of this state are divided into three distinct departments: The legislative, executive and judicial, and no person or collection of persons charged with the exercise of powers properly belonging to one of these departments shall exercise any powers properly belonging to either of the others, except as in this constitution expressly directed or permitted.

When the trial court rendered a decision before officially opening the case, it showed its intent to disregard the law and it is actively disregarding the court's own rules and the Constitution as well as a deliberate bias against one of its litigants in support of the opposing litigant. An act of bias by a court and/or judge violates both constitutions and perverts justice.

Therefore, when Judge Campbell became aware that he held a bias against one of his litigants, he had the duty/obligation/mandate under the court's rules, the Bar Association's code of ethics and the Constitution to recuse himself "to avoid even the appearance of a conflict of

interests.” *Wheat v. United States*, 486 US 153, 108 S Ct 1692 (1988) teaches that “an actual or potential conflict of interest poses a serious challenge indeed to the integrity of the judicial process.” A “Conflict of interest is never harmless error.” *Holloway v. Arkansas*, 98 S. Ct. 1173 (1978); *Shongutsie v. State*, 827 P.2d 361, 378 (Wyo. 1992). (See also USCA Const. Amend. 6; *Oliver v. Wainwright*, 782 F.2d 1521 CA11 (Fla.) 1986 Cert Denied 107 S. Ct. 313, 479 US 914, 93 L. Ed.2d 287).

“There may be a very few, rare cases in which the personal attacks or law suites are so egregious that a reasonable person would perceive the judge as being biased. In such case, the judge should recuse himself or herself in order to avoid the appearance of a conflict.” See *In re Whet, Inc.*, 33 BR 424 (Bankr. Mass. 1983); *In re Potter*, 292 BR 711 (Bankr. 10<sup>th</sup> Cir 2002).

Judge Campbell’s failure to recuse himself brings his judgments under scrutiny as they are unconstitutional and clearly against established legal procedure. This Court has a duty to correct the miscarriage of justice that has resulted by his prejudice against the petitioners.

The problems and crimes against the petitioners, the other people partaking in this case, and the others they are trying to protect have been brought to the attention of the Governors as well as the Wyoming Attorney Generals, who have chosen to ignore the claims without providing any action. Therefore, they have been abnegating their duty and responsibilities to the people of Wyoming.

“Under the provisions of subsection 9-1-608 (a), the attorney general has the **power and duty to protect the state and its citizens against abuse of its laws.**” *Zweifel v. State*, 517 P.2d 493, 1974 Wyo. LEXIS 172 (Wyo. 1974)

According to the United States’ Code Service:

“Every person who, having knowledge that any of the wrongs have been committed, conspired to be committed, or, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act.” Title 42, Chapter 21, §1986 Federal Code.

This places upon every person who was appraised of the crimes being committed a responsibility to correct them regardless of whether they are an elected official, an appointed official, an employed official, or even a general citizen. However, those that were given notice who were officials have gone beyond violating 42 USC §1986, but also a breach of both their oaths of office as well as a breach of the Constitutions.

**WHEREFORE**, your petitioners appeal to this Court's conscience, duty to justice, and superintending control over all inferior courts to correct the aforementioned crimes by the lower courts, that was *bad behaviour by the magistrates* in offence to the Constitution and the rules of the Courts, and should cause these magistrates to *loses their Offices* according to Constitution of the United States Article III, Section 1.

We ask the U.S. Supreme Court to remand this case and Order: the Wyoming District Court to issue the summons and handle the case according to the court's rules and appointing a different judge to hear the case and render rulings that do not further offend justice and the Constitutions.

We ask the U.S. Supreme Court to Order: the Wyoming Supreme Court to open access to the Court for a poor person to seek justice and redress within the Wyoming Judicial system in *forma pauperis* or some other avenue.

We ask the U.S. Supreme Court to Order: the District Court of the First Judicial District Laramie County to refund the second for fee of \$85.

We ask the U.S. Supreme Court to Order: the District Courts and Wyoming Supreme Court to rule in favor of the Constitution of the United States and the Constitution of the State of Wyoming in all cases under close scrutiny from a federal oversight board.

### **Solemn Proclamation**

We solemnly proclaim that the Constitution of the United States was ordained by God to ensure the freedoms and rights of all citizens of these United States from tyranny, from oppression, and from abuse by government officials, and further, we proclaim that all officials for this government that abuse the Constitution of the United States and set it at naught, will answer to the Almighty God for their abuse of this authority given them by Him, and such officials will stand condemned before Him in this life and at the last day. I quote:

“And that law of the land which is constitutional, supporting that principle of freedom in maintaining rights and privileges, belongs to all mankind, and is justifiable before me.

“Therefore, I, the Lord, justify you, and your brethren of my church, in befriending that law which is the constitutional law of the land;

“And as pertaining to law of man, whatsoever is more or less than this, cometh of evil.”

Doctrine and Covenants 98:5 – 7

“I have sworn, and the decree hath gone forth by a former commandment which I have given unto you, that I would let fall the sword of mine indignation in behalf of my people; and even as I have said, it shall come to pass.”

Doctrine and Covenants 101:10

“And again I say unto you, those who have been scattered by their enemies, it is my will that they should continue to importune for redress, and redemption, by the hands of those who are placed as rulers and are in authority over you—

“According to the laws and constitution of the people, which I have suffered to be established, and should be maintained for the rights and protection of all flesh, according to just and holy principles;

“That every man may act in doctrine and principle pertaining to futurity, according to the moral agency which I have given unto him, that every man may be accountable for his own sins in the day of judgment.

“Therefore, it is not right that any man should be in bondage one to another.

“And for this purpose have I established the Constitution of this land, by the hands of wise men whom I raised up unto this very purpose, and redeemed the land by the shedding of blood.”

Doctrine and Covenants 101:76 – 80

“Let them importune at the feet of the judge;

“And if he heed them not, let them importune at the feet of the governor;

“And if the governor heed them not, let them importune at the feet of the president;

“And if the president heed them not, then will the Lord arise and come forth out of his hiding place, and in his fury vex the nation;

“And in his hot displeasure, and in his fierce anger, in his time, will cut off those wicked, unfaithful, and unjust stewards, and appoint them their portion among hypocrites, and unbelievers;

“Even in outer darkness, where there is weeping, and wailing, and gnashing of teeth.

“Pray ye, therefore, that their ears may be opened unto your cries, that I may be merciful unto them, that these things may not come upon them.

“What I have said unto you must needs be, that all men may be left without excuse;

“That wise men and rulers may hear and know that which they have never considered;

Doctrine and Covenants 101:86 – 94

Respectfully submitted to the United States Supreme Court on this **21** day of **July, 2020**.

### **Reasons for Writ of Certiorari**

The evidence is in the Court Docket (also in list of proceedings) of the District Court for the First Judicial District, Laramie Wyoming that provides *proof the District Court has not issued a summons* and provides evidence *the dismissal of this case was only 42 days rather than 90 days claimed*. Validating the fact that Court violated its oath and duty to uphold the Federal Constitution (Due Process of Law), the State of Wyoming Constitution, and its own Court rule.

The Court Docket of the District Court for the First Judicial District, Laramie Wyoming provides *confirmation* that the Supreme Court of the State of Wyoming erred using the date of submission of the rehearing 02/25/2019 to toll the time rather than the date the motion was ruled on 09/26/2019. Unquestionable and undisputed evidence of errors were made by the lesser Courts and confirms that fundamental justice and thousands individuals rights under the Constitution has been denied give this Court amplified reason to hear this Writ of Certiorari to correct these errors of the lesser Courts.

The perceived two systems of justice that has led to the nationwide demands for justice reform and the defunding of the police is evidenced within this claim. Rights were deprived by entities acting for the State, and when reported State Officials refused to even investigate as

required by the State Constitution. Justices appointed or promoted by these State Officials have not let this case come to trial showing, in this case, that there are two justices with no fairness in the system. We pray this last resort Court will correct the injustice we have experienced.

- The Wyoming Supreme Court Judges, the Wyoming District Court Judges, the Clerks of Court, the Judicial Review Board, the Governor(s) of the State of Wyoming, the Attorney General for the State of Wyoming, the District Attorney(s), the police officers have conspired to deprive the rights guaranteed within the Contract of the Constitution of the United States; they have conspired to deprive these rights willfully and wantonly in blatant disregard for the Supreme Law of the Land and a multitude of lesser laws.
- The Wyoming Supreme Court Judges, the Wyoming District Court Judges, the Clerks of Court, the Judicial Review Board, the Governor(s) of the State of Wyoming, the Attorney General for the State of Wyoming, the District Attorney(s), the police officers have violated their own Oath's of Office and have done so willfully and wantonly.
- The Wyoming Legislature has passed and the State has enforced laws that are in direct violation of the Constitution. These laws abridge fundamental justice by changing the requirement that guilt must be proven beyond reasonable doubt and through the preponderance of the evidence (historically due process), into just being accused of a crime is sufficient to obtain a conviction of guilt, needing no corroborating evidence (Wyoming Statue 6-2-311). Since 1982 convictions have been made and upheld by Wyoming Courts under this law. Those accused must seek a plea agreement or face life in prison.
- The Wyoming Courts have closed their doors to those unable to pay their fees. They require fees so high that an inmate would have to save for years to be able to pay them and

then the Courts time bar the inmates, effectively denying access to the Courts by the poor which violates equal protection under the law and access to the Courts as required by the Contract of the Constitution of the United States.

**Declaration Under Penalty of Perjury**

The undersigned declares (or certifies, verifies, or states) under penalty of perjury that the information contained within the above action is true and correct to the best of his knowledge pursuant to W.S. 6-5-301; 28 U.S.C. 1746; 18 U.S.C. 1621.

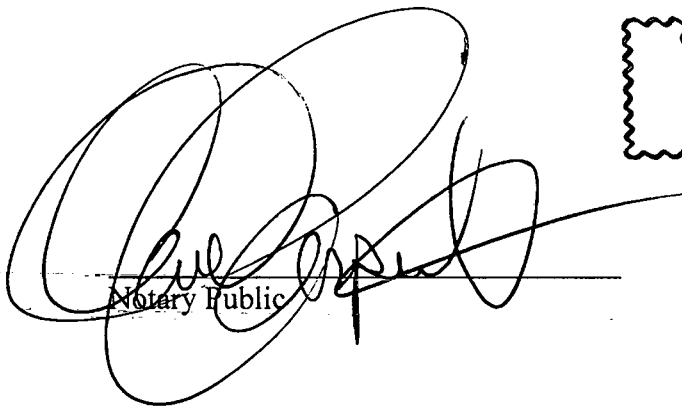
  
FANE R. SELLERS *Pro Se*

  
STEVEN BABCOCK *Pro Se*

STATE OF WYOMING                   )  
  ) SS.  
COUNTY OF WESTON               )

Subscribed and sworn/affirmed before me this 14 day of September, 2020



  
Notary Public

My Commission Expires: March 21, 2024



**Appendix**

**Wyoming Supreme Court Rulings**

**Order Dismissing Appeal     June 02, 2020**

**Order Denying Petition to Reinstate Appeal     June 30, 2020**