

In the Supreme Court of the United States

Maxine Shepard, et al, Petitioner, *pro se*

v.

Department of Veterans Affairs, et al

**On Petition for Writ of Certiorari from the
United States Court of Appeals
for the Tenth Circuit
19-1313, Shepard v. DOVA, et al
Dist/Ag. Docket: 1:18-CV-01098-PAB_KMT**

PETITION FOR REHEARING


Maxine Shepard,
Petitioner, Pro Se
P.O. Box 75
DeWitt, MI 48820
ms2863386@gmail.com

In the Supreme Court of the United States

No. 20-6413

Maxine Shepard, et al

v.

Department of Veterans Affairs, et al

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

PETITION FOR REHEARING

Pursuant to Rule 44.2, and based on intervening circumstances of a substantial or controlling effect, Petitioner Maxine Shepard respectfully petitions for rehearing of the Court's order on 3/8/2021 denying certiorari in this case. This petition for rehearing is filed within 25 days of this Court's decision in this case. It is presented in good faith and not for delay.

1. This case involves denial of a Title 38 U.S.C. 1151 Tort Claim for medical malpractice against the Department of Veterans Affairs for unlawful implantation of microchips, unlawful human experimentation as well as other acts of negligence and a denial by the Tenth District of Petitioners' request for an extension of time to cure the defect in service under Fed. R. Civ. Proc. 4 (i).

GROUND S FOR GRANTING PETITION

1. Since denying certiorari, the U.S. House of Representatives has passed the George Floyd Justice in Policing Act 3/4/2021. On 3/8/2021, the House introduced legislation that reauthorizes the Violence Against Women Act, a landmark bill that was championed by President Biden in 2018. Among its many provision, the George Floyd Justice in Policing Act, would eliminate qualified immunity for all local, state, and federal law enforcement officers. Under qualified immunity, government officials escape any legal liability for civil rights violations unless the victim can show that their rights were "clearly established" at the time. This is significant due to the Fourth Amendment violations committed against the Petitioner by police, FBI and others acting under the color of law to violate her civil rights by saying they had a right to connect to her while she slept in her bed allegedly under authority of the FOIA Act. See *Kelsay v. Ernst, on Petition from the United States Court of Appeals for the Eighth Circuit (19-682)* is another case awaiting the change in law for qualified immunity. See also *Bivens v. Six Unknown Fed. Narcotics Agents, 403 US 388 (1971)*, the court held that Webster Bivens could sue the federal narcotics agents. If a citizen has no rights within their own homes, within their own bodies, within their own minds, why continue to call this a democratic society?

2. The VAWA, if passed would close the law enforcement consent loophole. The bill includes language that states: "no woman could give 'consent' to sex when they are in the police custody." In Petitioners' case, while unknowingly being experimented on remotely.. This is pertinent to Petitioners' case due to the sexual experimentation on her by federal contractors, agents and/or the Fourth Amendment violations by the police who believe they may

have probable cause to search her body cavity using a FOIA as an excuse. Ms. Shepard would like to reference the body cam footage of a black woman which shows her body cavity being searched on the side of the highway by Harris County Sheriff officials in 2015.¹ For purposes of this argument custody could mean when they connect remotely to her neck or body via the implants. Passage of the VAMA would make sexual acts forbidden by police with someone in their custody forbidden. See *Kelly Brodie, et al., v. Jerry R. Foxhaven et al, Case 1:20-cv-00004-CRW-SBJ*. In *Brodie v. Foxhaven*, disabled and physically impaired residents of a medical facility in Iowa were sued for performing unlawful sexual research on the residents. Remote attacks that violate a person's body go beyond V2K and RF attacks. They have advanced or regressed morally to include ways to cause arousal by GPS devices usually for the delight of the one controlling the device, not the one being awakened in the middle of the night and being subjected to them. Petitioner has experienced several such unwanted events. Since denying certiorari, events have also occurred that present a clear and present danger for the Petitioner and her family.

INFORMED CONSENT

3. The Common Law Rule.² The current U.S. system of protection for human research subjects is heavily influenced by the Belmont Report, written in 1979 by the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. The Belmont Report outlines the basic ethical principles in research

1 <https://www.youtube.com/watch?v=SZhUhmE5ihQ>.

2 Information on Federal Policy for the Protection of Human Research Subjects obtained from:
<https://www.hhs.gov/ohrp/regulations-and-policy/regulations/common-rule/index.html>.

involving human subjects. In 1981, with this report as foundational background, HHS and the Food and Drug Administration revised, and made as compatible as possible under their respective statutory authorities, their existing human subjects regulations.

4. The Federal Policy for the Protection of Human Subjects or the "Common Rule" was published in 1991 and codified in separate regulations by 15 Federal departments and agencies. The HHS regulations, 45 CFR 46, include four subparts: subpart A, also known as the Federal Policy or the "Common Rule"; subpart B, additional protections for pregnant women, human fetuses, and neonates; subpart C, additional protections for prisoners; and subpart D, additional protections for children. Each agency includes in its chapter of the Code of Federal Regulations [CFR] section numbers and language that are identical to those of the HHS codification at 45 CFR part 46, subpart A. For all participating departments and agencies the Common Rule outlines the basic provisions for IRBs, informed consent, and Assurances of Compliance.³

5. There are 19 agencies involved (including HHS) that follow the Pre-2018 Requirements Of these, 15 agencies are official signatories with the rule codified in their own Code of Federal Regulations (CFR) sections. The Department of Veterans Affairs as well as the Department of Defense are included in those agencies. The underlying principle of the Common Rule is that all human experimentation should be done with informed consent of the human research subject. The Department of Veterans Affairs Common Rule guidelines are regulated under 38 CFR 16 and 32 CFR Part 219 for the Department of Defense.

6. On January 4, 2021, the Department of Veterans Affairs amended its handbook on Informed Consent. The

³ Information on the VA's Office of Research Oversight can be obtained accessed at: <https://www.va.gov/oro/>.

amendment shows that the VA know and understand that informed consent is required by law. The reason for the change is to clarify and update the VHA national policy on informed consent in VHA Handbook 1200.5(1) and Handbook 1058.03 for VHA policy on informed consent for research. "The VA promises in this amended handbook that the update will be in alignment with 38 Code of Federal Regulations (C.F.R.)§17.32, Informed Consent and Advance Directives." The VA did not adhere to or comply with this policy in 2005 when Ms. Shepard was unlawfully implanted and the VA continues to deny Ms. Shepard her right to know what took place during the surgery, how to get the implants removed, or explain why they cannot turn off the transceiver/receivers that they placed in her ears as well as any of the other implants which are still emitting a wi-fi and/or radio signal that can be detected by HAMM radio, CB and other equipment available on the market today which now allow people to connect to her via their cell phones, Xbox or Playstation or internet. The VA's gross negligence and liability here is clear. Be it not for the actions of the doctor who performed the surgery at the VA medical facility none of this would be happening.

7. Ms. Shepard's requests for information pertinent to the implants are always met with denial. In a letter dated January 13, 2021, in response to a request for information about the implants, the U.S. Department of Justice stated that they were not required to respond. A copy of the letter is attached at Appendix I. Similarly, a request was sent to the Department of Veterans Affairs who administratively closed my request under the Freedom of Information Act. A copy of this denial is attached as Appendix II. The VA has denied Ms. Shepard's FOIA request on several other occasions. *Id at 1.*

CLEAR AND PRESENT DANGER

8. The right of self-determination which underlies the doctrine of informed consent also encompasses the right to refuse medical care. A competent adult is generally allowed to reject medical care even if death or serious harm may occur. Had she been completely informed, Ms. Shepard would have definitely not allowed implants in her brain, near her heart, inside her vagina, her lower back, arms, legs, feet and hands or her eyes. Had she also been so informed about the brain research initiative⁴ she would have refused participation. She was not given the choice to self-determine her own medical care or her participation in a dangerous experimental surgery or research. Research which members of the FBI and other agencies decided that Ms. Shepard as an African-American woman needed to teach her a lesson or changer her behavior. Their unconsensual experiments on her have lasted almost 16 years which amounts to Torture according to 18 U.S.C. 2340. One of the central points of this case and the reason why the writ should be granted is that the powers of the U.S. Department of Veterans Affairs, the DOD, the House, Senate, Presidency and all the federal contractors that they have employed in Texas, Colorado and now Michigan to carry out their goals have greatly subverted an oppressive, vindictive, diabolical and life threatening control over her. They have even begun outsourcing her at night for the media, her neighbors, the general public, medical students, research facilities in the US, as well as

4 Internet articles on the brain initiative accessed on 3/17/2021:

1. <https://obamawhitehouse.archives.gov/the-press-office/2015/09/15/executive-order-using-behavioral-science-insights-better-serve-american>.

2. <https://obamawhitehouse.archives.gov/BRAIN>.

3. <https://offgridsurvival.com/executiveorderbehavioralexperiments/>.

internationally who are allowed to connect to her or “listen in” to her bio-rhythms while she sleeps. Currently they have learned to reverse the camera in their cell phones so that Ms. Shepard can actually see them making fun of her. The thin skull doctrine applies here because the back of her head has been connected to remotely so many times that she wakes up in a cold sweat, trembling at the base of her skull and is often nauseated. Members of the GOP⁵ legislative branch have also begun inciting members of their party to perform acts of retaliation against her for posts on her Facebook blog. One such attack almost snapped her neck in two. This has created a clear and present danger for the Petitioner as well as her child who depends on her for support.

9. In applying the clear and present danger test in *Schneck v. United States*, 249 US 47(1919), Justice Oliver Wendell Holmes Jr. observed: “The question in every case is whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent.” The speech being referred to here is that of a senator from Iowa and members of the GOP who have a great deal of influence over members of their party and have convinced them that Ms. Shepard is their enemy. The incitement of violence against her or anyone else that disagrees with them is a continuation of the tactics of the former president and can be clearly evidenced in the recent behavior of Sen. Mitch McConnell who has vowed that the Senate would become “a scorched earth”⁶ if the filibuster is removed, basically halting the democratic machine. See also, *Gritlow v. New York* (1925),

5 During a prolonged two-day V2K/RF attack which began on 3/13/21, the anniversary of the death of Ms. Breonna Taylor, a senator from Iowa was named as the overseer of the event which is ongoing by her neighbors who live directly across the street from Petitioner.

in which the court reviewed the bad tendency test to measure the tendency to use words for wrong. Something that members of the GOP have done quite frequently.

BILL OF ATTAINDER

10. The control over a person by a government official or the police doesn't need to be long in duration and the scope of the control doesn't need to be large, an arm or leg for instance. What matters is the effect of that control. The effects of the governments 16 years of involuntary servitude in research projects, social experiments, the provoking of public scorn and ridicule has created a deprivation of human, civil and constitutional rights not before seen in this nation or before this Court and which amounts to Torture according to 18 U.S.C 2340. A few years ago Ms. Shepard purchased a kevlar helmet on Ebay. When she purchased the helmet it was free of holes or any other defects. A few weeks ago she noticed a small hole on the left side of the helmet where it appears to have been penetrated by a very powerful laser. This image is herein attached as Appendix III. Ms. Shepard has been used recently by unknown researchers, medical professionals and/or scientists to perform remote surgical procedures on her brain that have left her temporarily paralyzed. The GOP has probably launched their own 'initiative' for which she has been unwittingly subjected to which is nothing more than a bill of attainder. During the attack on 3/13/21 which was overseen by a senator from Iowa. She heard those involved manipulating words to fraudulently appear as if they came from me giving them consent. I heard one of them say, "I consent!" She had given them no such consent. They said the words, not the Petitioner. It seemed as though they were recording the words into an electronic device. They have shared the technology with Russia/KGB.

6 <https://www.nationalreview.com/news/mcconnell-warns-democrats-of-scorched-earth-senate-if-filibuster-is-removed/>.


This technology now poses a national security risk not only to the Petitioner, but to all the American people. They have used the bill of attainder to spew words of hatred to her, stop her from thinking freely, tell her how ugly they think she is, how fat she is, that she is a know-it-all or otherwise degrade her as a woman of color. None of these things benefit the greater good of humanity, but do more to serve a misogynistic and racist agenda.

11. The decision of the U.S. District Court in Colorado to not allow an extension of time to cure defect in service does not comply with the decisions of other courts. Petitioner is not asking the Court to change the law to allow FedEx for service of process. She is simply asking the Court to affirm that the lower courts erred in not allowing her an extension of time to cure a defect in service in accordance with Fed. R.Civ.Proc. 4(i), reverse and remand with instructions for them to set a settlement conference in accordance with Rule 121, Section 1-17 under Rule 16.2(i) as set forth by the Colorado Supreme Court.

CONCLUSION

12. Ms. Shepard has proven to this Court that she can comply with a court order and serve the defendants via US Postal Service rather than FedEx as proven by the record in this case. See note on docket dated February 1, 2021: "Petitioner complied with order dated January 19, 2021."

13. The Court should grant the Petition for Rehearing and grant the Writ of Certiorari in this case.



Maxine Shepard
P.O. Box 75
DeWitt, MI 48820

In the Supreme Court of the United States

Maxine Shepard, et al, Petitioner, *pro se*

v.

Department of Veterans Affairs, et al


On Petition for Writ of Certiorari from the
United States Court of Appeals
for the Tenth Circuit
19-1313, Shepard v. DOVA, et al
Dist/Ag. Docket: 1:18-CV-01098-PAB_KMT

RULE 44 CERTIFICATE

As required by Supreme Court Rule 44.2, I certify that the Petition for Rehearing is limited to "intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented," and that the Petition is presented in good faith and not for delay.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 24, 2021.


Maxine Shepard,
Petitioner, Pro Se
P.O. Box 75
DeWitt, MI 48820
ms2863386@gmail.com

**Additional material
from this filing is
available in the
Clerk's Office.**