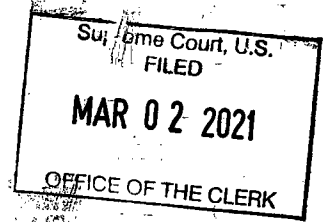


20-6443



UNITED STATES COURTS OF APPEALS
FOR THE SECOND CIRCUIT

SCOTT MYERS,

Plaintiff-Appellant,

-against -

CHARLES BUCCA, GREG SEELEY,
PATROLMAN ROWELL, ALAN FRISBEE,
DONNA BAECKMAN, MICHAEL SPITZ,
TERRY WILHELM, BOBBY HAINES,
MUNICIPALITY OF GREENE COUNTY.

Defendant-Appellees.

PETITION FOR REHEARING
UNITED STATES SUPREME COURT

Scott Myers, prose

Scott Myers
39 West Bridge Street
Catskill, NY 12414
(518) 291-8169
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United States Supreme Court

SCOTT MYERS,
Plaintiff-Appellant,

-against -

CHARLES BUCCA, GREG SEELEY, PATROLMAN
ROWELL, ALAN FRISBEE, DONNA BAECKMAN,
69
MICHAEL SPITZ, TERRY WILHELM,
BOBBY HAINES, MUNICIPALITY OF GREENE
COUNTY,

Defendant-Appellees.

PETITION FOR
REHEARING

20-6443
From 2nd Cir. C.O.A. 19-

ON PETITION FOR REHEARING

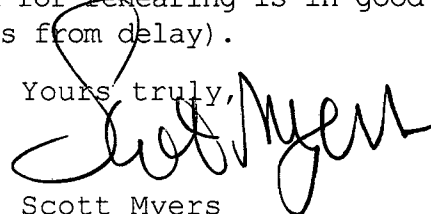
The Movant, Scott Myers, does petition for rehearing of this Court's February 22, 2021 denial for a writ of certiorari.

Such good cause includes two arguments not previously developed"

1. "whether the denial of relevant U.S. Supreme Court case law as jury instruction prevented justice
2. Whether the defendants can prosecute me without the victim's permission or cooperation (my wife)

I swear and affirm that this petition for rehearing is in good faith and is not for delay (no benefit comes from delay).

Yours truly,



Scott Myers
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(518) 291-8169
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I swear under penalty of perjury that the foregoing is true and correct, February 23, 2021, 28 U.S. Code § 1746

NEW QUESTIONS PRESENTED

1. Does the denial to include, as jury instruction, relevant and controlling U.S. Supreme Court case law,³ illegally prevent justice and violate the right to a fair trial, etc., the U.S.C. decisions allow violating an Order of Protection for reasons such as imminent harm, etc.,
2. Can a county court prosecute for violating an order of protection (which is how the criminal cases were brought) without the participation, approval, or cooperation of the person named as "victim." Clare did not cooperate with the prosecutors.

Clare did not cooperate with prosecutors at any time in any of these processes. The defendants prosecuted.

³ These controlling U.S. Supreme Court decisions were provided by motion for jury instruction, but I was not allowed to tell the jury of these cases: "Willfully" has been defined by the Supreme Court, in *United States v. Murdock*, supra, as follows: "The word often denotes an act which is intentional, or knowing, or voluntary, as distinguished from accidental. But when used in a criminal statute it generally means [1] an act done with a bad purpose (*Felton v. United States*, 96 U.S. 699, 24 L. Ed. 875; *Potter v. United States* 155 U.S. 438, 15 S. Ct. 144, 39 L. Ed. 214; *Spurr v. United States*, 174 U.S. 728, 19 S. Ct. 812, 43 L. Ed. 1150); [2] without justifiable excuse (*Felton v. United States*, supra; *Williams v. People*, 26 Colo. 272, 57 P. 701; *People v. Jewell*, 138 Mich. 620, 101 N.W. 835; *St. Louis, I.M. & S. Ry. Co. v. Batesville & W. Tel. Co.*, 80 Ark. 499, 97 S.W. 660; *Clay v. State*, 52 Tex'.Cr.R. 555, 107 S.W. 1129); [3] stubbornly, obstinately, perversely (*Vales v. Miner*, 89 Ind. 118, 127; *Lynch v. Commonwealth*, 131 Va. 762, 109 S.E. 427; *Claus v. Chicago Great W. Ry. Co.*, 136 Iowa 7, 111 N.W. 15; *State v. Harwell*, 129 N.C. 550, 40 S.E. 48). [4] The word is also employed to characterize a thing done without ground for - believing it is lawful. *Roby v. Newton*, 121 Ga. 679, 49 S.E. 694, 68 L.R.A. 601), [5] or conduct marked by careless disregard whether-or - not one has the right so to act (*United States v. Philadelphia & R. Ry. Co. (D.C.)* 223 F. 207, 210; *State v. Savre*, 129 Iowa 122, 105 N.W. 387, 3 L.R.A., N.S., 455, 113 Am.St.Rep. 452; *State v. Morgan*, 136 N.C. 628, 48 S.E. 670."

This represents pure hegemony.

Notably, A.D.A. Ann Marie Rabin and Probation Officer Donna Baeckman forged the victim statement ascribed to Clare.

NARRATIVE

On September 11, 2001, two large planes full of fuel and passengers exploded inside the World Trade Towers a block from my home. My family has lived in a rent-controlled penthouse at 12 John Street since 1982. At the time, my wife was on bed rest in her 7th month of pregnancy. Clare is of Middle Eastern heritage.

When we finally abandoned the home and neighborhood, we moved to a small country home in Tannersville, where Clare spent most of her summers.

We were almost immediately attacked by local law enforcement. The first event was from taking our daughter to the local hardware store. I was arrested for leaving her in the car (which was 10' away and always within sight).

The Town of Hunter Hon. William Simon eventually dismissed the case, but the emotional damage to Clare caused her to breakdown. At the urging of her mother and sisters, she hired counsel and sued for divorce.

Her counsel, Rose Ann Branda, was then the President of the Bar in Brooklyn. Clare's retainer contract gave "sole discretion" to Branda, who was eventually paid \$50,000.

The judge, Eric Prus, saw us as his first contested case. Prus ran unopposed on both party tickets. He was nominated by the Brooklyn Bar.

The seasoned attorney Branda began with a temporary order of protection ("tOP"), which the family court-approved and Prus renewed.

After granting the divorce, Prus jailed me in The Tombs for six months for complaining that he was aiding terrorism and avoiding legal protections such as the assignment of counsel.

At no time was I represented by counsel. My formal motions for appointment of counsel were denied.

The tOP was used by Greene County to persistently threaten and harass my family and me preventing the necessary safety we needed after 9/11.

Charles Bucca grew up in Tannersville and was the prosecuting Assistant District Attorney. Bucca and Bucca were also the realtor/attorney for our home in Tannersville.

On February 14, 2010, Greene County Deputy Rowell arrested me in Tannersville. A.D.A. Bucca prosecuted. Although charged with refusing to take a breath test, the April 19, 2012 trial in Athens proved that Rowell was not licensed to operate his equipment, that he did not do field sobriety tests, and that he made up a false probable cause. Hon. Constance Pazen was convicted without any evidence of alcohol or unsafe driving. I appealed on April 22, 2014, Hon. Richard Kowee reversed Pazen. The record on appeal showed that Pazen used a script that pre-convicted: "We now find the defendant _____ guilty of _____."

Meanwhile, the defendants prosecuted county indictments 11-100 and 13-163. They did not need Clare's permission. She did not cooperate with them. Clare did appear at the jury trial for 13-163, but as my witness.

Suspecting a forced conclusion, I declined to voir dire the jury for 13-163. The trial judge, Hon. Richard Koweeck denied my motions for jury instruction. I asked to include significant case law that allowed violating orders of protection where danger existed, etc.

The pre-sentencing report ("P.S.I.") prepared by defendant Baeckman, supervised by defendants Frisbee and Lubera, can only be described as evil.

Generally, sentencing allows the victim to speak. But at sentencing, Baeckman read a statement that Clare did not write.⁴ The sentencing statement was not signed.

Further, the trial record shows that Clare was not a witness at the Grand Juries. In short, the county prosecuted without her cooperation.

REASONS FOR GRANTING THE PETITION

The defendants improperly forced jail and prison on me and took away my family. They preyed on our vulnerability

⁴ 15-cv-00553-DNH-ATB Document 64-4

after 9/11.

I've certainly done my part defending these mind-numbing false charges. I removed the New York State Matrimonial Chief Judge Jacqueline Silbermann and her department (referencing their own report's conclusions). I demoted Federal Southern District Chief Judge Kimba Wood. I removed Greene County Sheriff Richard Hussey, Greene County Sheriff Greg Seeley, and Jail Superintendent Michael Spitz.

I provoked the Alternatives To Incarceration ("A.T.I.") committee, which met weekly 20 times.

I forced our jail to close on April 17, 2018, resulting from FOILING 5 years of correspondence and reinforced by SCOC's report naming Greene County a worst offender.⁵

To recover my family from terrorism and the effects of these defendants, it's necessary to grant the petition and remand to the district court for trial on an award.

No other solution exists. I do this work because I

⁵ <https://scoc.ny.gov/pdfdocs/Problematic-Jails-Report-2-2018.pdf>