No. 20-6649

IN THE
SUPREME COURT OF THE UNITED STATES

El Aemer El Mujaddid, Petitioner

v.

Andrew Brewer; et. al

On Petition for Writ Of Certiorari to the United States Court of Appeals For The Third Circuit

REPLY BRIEF FOR THE PETITIONER

Respectfully Submitted,

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INTRODUCTION

Counsel filed a copy of the invalid subpoena to testify [Exhibit "A", "B"] with their Notice of Removal. Counsel also filed a copy of the invalid subpoena to testify with their Motion to Dismiss. Counsels arguments are frivolous, his clients abused subpoena power which is egregious[1], worthy of suspension and their counsel involved the Federal Judiciary seeking ratification of respondents abuse of process. There is no law that authorized respondents to serve Petitioner with a Subpoena to testify in the state action styled as State v. El Mujaddid.

> *An abuse of process is by definition a denial of procedural due process. Such deprivations without due process state an injury actional under section 1983. See, e.g. Economou v. United States Department of Agriculture, 535 F.2s 688 (2d Cir. 1976), cert. granted sub nom. Butz Economou, 429 U.S.C. 1089, 97 S.Ct. 1097, 51 L.Ed. 2d 534 (1977). This court has stated that the enforcement of a subpoena for an improper purpose constitutes an abuse of the court's process. See United States v. Westinghouse Elec. Corp., 788 F. 2d*

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[1] The Commission recognized "that where the underlying conduct is of an egregious nature, the imposition of a penalty up to and including removal is appropriate, regardless of an individual disciplinary history. In re Stallworth 26 A. 3d 1059 (N.J. 2011) In re Hall, 170 N.J. 400 (2002) (three-year suspension imposed on attorney who made numerous misrepresentations to trial and appellate judges, served a fraudulent subpoena. Indeed, "one sufficiently egregious action [may] constitute domestic violence under the Act, even with no history of abuse between the parties." Cesare v. Cesare, 154 N.J. 394, 402 (1998), T.F. v. F.S. DOCKET NO. A-2137-15T4 (N.J. Super. App. Div. Jul. 7, 2017) Cases involving egregious violations of RPC 8.4(c), even where the attorney has a non-serious ethics history, have resulted in the imposition of terms of suspension. See, e.g., In re Carmel, 219 N.J. 539 (2014), In re Steiert, 220 N.J. 103 (2014), and In re Franco, 227 N.J. 155 (2016) and In re Clausen Docket No. DRB 16-426 (N.J. Jun. 27, 2017)."Egregious use of subpoena power has been held to be a violation of the New Jersey Rules of Professional Conduct, in particular, R.P.C. 3.4(c) (fairness to opposing party and counsel) and R.P.C. 4.1 (truthfulness in statements to others). Id. at 572, 760 A.2d 353. Superior Court of New Jersey, Karen M. WELCH, Plaintiff, v. William B. WELCH, Defendant. Id. at 92. Puchalsky v. Puchalsky DOCKET NO. A-0413-13T3, at *23 (N.J. Super. App. Div. Jun. 22, 2015)

Respondents in continuing with their practice of misrepresentation argued:

> *"The panel further noted the complaint makes conclusory statements with no factual basis, including accusing the respondents of subjecting petitioner to the conditions of slavery, despite the fact that petitioner was never detained or arrested."* **Respondents Brief in Opposition Pg. 9.** *Petitioners Fourth Amended Complaint claims a traffic citation, allegedly improperly served, resulted in violations of his "freedom of thought" and his right to be free from "the relics of slavery"... Petitioner also accuses Respondents of violating human trafficking laws, despite the fact Petitioners was never arrested, or even detained."* **Pg. 11. Respondents Brief in Opposition Pg. 11**

The TVPA explicitly defines coercion to include "the abuse or threatened abuse of the legal process.[2] The November 2017 Volume 65 Number 6 United States Department of Justice Executive Office for United States Attorneys Washington, DC by Monty Wilkinson Director clearly provides:

> *"The third form of coercion, "abuse or threatened abuse of law or legal process," is defined, for sex trafficking and forced labor alike, as "the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.* 18 U.S.C. § 1591 (e)(1) (2012)."

In 2018, a committee established by the New Jersey Supreme Court found that in 2017 the state's municipal courts brought in over $400 million in fines and fees. More than half went back to the municipalities, which can use the funds however they like, including to pay elected officials, judges, and other municipal employees. The committee noted with concern that the burden of these fines and fees falls disproportionately on the poor and suggested a focus on revenue could be damaging

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[2] 22 U.S.C. § 7102(3)(c).

the public's confidence in the courts. A new Institute for Justice report studies the impact of taxation by citation by looking at three Georgia cities that rely heavily on fines and fees revenue. The Price of Taxation by Citation finds the cities' pursuit of fines and fees may have contributed to lower levels of public trust in the government, including in the cities' courts. Americans have a constitutional right to a fair trial and to have their case heard by a judge who has no financial interest in the outcome.[3] New Jersey's municipal courts -- the places where residents fight parking tickets and other low-level offenses -- are too often used as cash machines that squeeze poor defendants for fines and fees with threats of jail time or license suspensions, according to a new report from the state judiciary. It found that abuse of laws allowing local courts to impose contempt-of-court fines and several recent cases of misconduct by municipal judges showed a need for change in New Jersey's town court system, which collected $400 million in fines and fees last year alone. The report recommended 49 measures to rein in the practice and restore public faith in New Jersey's municipal courts, some of which have already been taken up by the Supreme Court and others that have prompted proposed legislative fixes. In his memo, Rabner reminded judges that U.S. Supreme Court precedent gives defendants a right to a hearing over whether they can afford to pay fines and fees imposed by a court.[4]

I. THE LOWER FEDERAL COURTS FAILED TO COMPLY WITH RULE 8(a), 54(c), 59 OF THE FEDRAL RULES OF CIVIL PROCEDURE

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[3] https://www.nj.com/opinion/2019/11/nj-towns-that-dish-out-tickets-just-to-raise-cash-must-be-stopped-non-profit-law-firm-says.html

[4] https://www.nj.com/politics/2018/07/nj_town_courts_new_jersey_shakedown.html

In Metro-North Commuter R. Co. v. Buckley 521 U.S. 424 (1997) the Supreme Court of the United States provided:

> *Federal Rule of Civil Procedure 54(c) directs a court to grant the relief to which a prevailing party is entitled, even if the party did not demand such relief in its pleadings. Rule 54(c) thus instructs district courts to "compensate the parties or remedy the situation without regard to the constraints of the antiquated and rigid forms of action." 10 C. Wright, A. Miller, M. Kane, Federal Practice and Procedure § 2662, pp. 133-134 (2d ed. 1983).*

Respondent's brief in opposition as usual misrepresent the function of Fed. R. Civ. Pr. 8(a)[5] and demonstrates as to the manner in which the Lower Federal Courts violated Rule 8 and Rule 54(c) of the Federal Rules of Civil Procedure.

> *Holding that it is necessarily an abuse of discretion to apply the wrong legal standard. Cooter Gell v. Hartmarx Corp. 496 U.S. 384 (1990) There is an abuse of discretion within the meaning of Federal Rule of Civil Procedure 59 "when the action of the trial judge is clearly contrary to reason and not justified by the evidence." Vizzini v. Ford Motor Co., 569 F.2d 754, 760 (3d Cir. 1977) (quoting Springfield Crusher, Inc. v. Transcontinental Ins. Co., 372 F.2d 125, 126 (3d Cir. 1967)). This means the appellate court must accept the factual determination of the fact finder unless that determination "either (1) is completely devoid of minimum evidentiary support displaying some hue of credibility, or (2) bears no rational relationship to the supportive evidentiary data." Krasnov v. Dinan, 465 F.2d 1298, 1302 (3d Cir. 1972).*

The Lower Federal Court decisions were both unfair, bias and not impartial. Their reading of Petitioner's complaint was not liberal. Respondents have confirmed Petitioners allegations that the District Court violated Federal Rule of Civil Procedure 54(c) by stating the following:

> *".... the issues petitioner raises were addressed by neither the District Court of New Jersey, nor the United States Court of Appeals for the Third*

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[5] The Court of Appeals disagreed with Judge Irenas' determination that Plaintiff's August 2013 complaint failed to satisfy Rule 8(a)(2). EL, Plaintiff, v. WEHLING et al., Defendants Civil Action No. 12-7750 (JBS/JS) 04-23-2015 .

Circuit below." Respondents Brief in Opposition Pg. (i)

Rule 8 as noted in Ashcroft v. Iqbal required the lower courts to accept Petitioner's underlying Fourth Amended Complaint's (Case 1:18-cv-14021-RBK-AMD; Document 36-1, Page ID: 1136) allegations regarding the abuse of subpoena power as true and to treat the attached Subpoena issued and enforced by respondents as part of the any version of his complaint, even where the final amended complaint cites the compulsory contents of the invalid Subpoena. In overlooking those facts and evidence, the Lower Courts failed to comply with both Rule 8(a), Rule 54 (c) and 59 the Federal Rules of Evidence that govern the management of the invalid subpoena to testify issued and also filed as an exhibit to the Notice of Removal and Motion to dismiss submitted by the Respondents themselves.

> "A claim has facial plausibility when the pleaded factual content allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." Id., at 556, 127 S.Ct. 1955. Citing Ashcroft v. Iqbal 556 U.S. 662 (2009) Under the Federal Rules, "a party should experience little difficulty in securing a remedy other than that demanded in his pleadings when he shows he is entitled to it." Id., at 135; see also id., § 2664, at 163 (Rule 54(c) "has been utilized when the court awards a different type of relief from that demanded in the complaint"); cf. Holt Civic Club v. Tuscaloosa, 439 U.S. 60, 65-66 (1978) ("a federal court should not dismiss a meritorious constitutional claim because the complaint seeks one remedy rather than another plainly appropriate one"; citing Rule 54(c)). Citing Metro-North Commuter R. Co. v. Buckley 521 U.S. 424 (1997) *In determining whether there was an immunity at common law that Congress intended to incorporate in the Civil Rights Act, we look to the most closely analogous torts — in this case, malicious prosecution, and abuse of process. At common law, these torts provided causes of action against private defendants for unjustified harm arising out of the misuse of governmental processes. 2 C. Addison, Law of Torts ¶ 852, and n. 2, ¶ 868, and n. 1 (1876); T. Cooley, Law of Torts 187-190 (1879); J. Bishop, Commentaries on Non-Contract Law §§ 228-250, pp. 91-103, § 490, p. 218 (1889). Wyatt v. Cole 504 U.S. 158 (1992) The tort, thus, does not depend on the validity of the process, which*

may be "technically correct," yet still abusive. In the instant case, however, liability is sought to be imposed upon the officer who issues the process, and his authority vel non is of the essence. Pertinent here is the settled principle of the accountability, in damages, of the individual governmental officer for the consequences of his wrongdoing. See, e.g., Entick v. Carrington, 19 Howell's State Trials 1029 (C. P. 1765); Marbury v. Madison, 1 Cranch 137, 163-168; cf. Wolf v. Colorado, 338 U.S. 25, 30-31, n. 1. With respect to federal officers, see, e.g., Little v. Barreme, 2 Cranch 169; Elliott v. Swartwout, 10 Pet. 137; Mitchell v. Harmony, 13 How. 115; Buck v. Colbath, 3 Wall. 334; Bates v. Clark, 95 U.S. 204; Kilbourn v. Thompson, 103 U.S. 168; Belknap v. Schild, 161 U.S. 10, 18; Philadelphia Co. v. Stimson, 223 U.S. 605, 619. This principle, in combination with the conventional notion of malicious abuse of process, seems to me ample warrant for concluding that the instant complaint makes out a common-law cause of action. Compare cases in which state judicial officers have been held liable in damages for abuse of process: Williams v. Kozak, 280 F. 373; Dean v. Kochendorfer, 237 N.Y. 384, 143 N.E. 229; Hoppe v. Klapperich, 224 Minn. 224, 28 N.W.2d 780. Wheeldin v. Wheeler 373 U.S. 647 (1963)

II. RESPONDENTS MISREPRESENTATIONS OF MATERIAL FACTS, RESPONDENTS COUNSEL'S VEXATIOUS, FRIVOLOUS AND ABSURD LITIGATION HISTORY SHOULD LEAD THE COURT TO GRANT THE PETITION FOR WRIT OF CERTIORARI

In response to an appeal in connection to a suit filed by respondent's counsel PARKER MCCAY, PA., et. al., against Governor Phil Murphy and the New Jersey Economic Development Authority, Superior Court Judges Moynihan and Mitterhoff Docket No. A-5237-18T4 issued the following ruling:

*"Because plaintiffs **[Parker McCay]** have failed to offer any additional allegations to suggest that the Task Force unlawfully investigated them in violation of N.J.S.A. 52:15-7, **we conclude that dismissal with prejudice**[6] was appropriate. Alternatively, plaintiffs contend that dismissal should have been without prejudice. "Having reviewed the record in light of the governing law, **we affirm the dismissal, with prejudice**, of count two of plaintiffs' complaint." The appeal was*

[6] "However, on appeal, we noted "dismissal with prejudice, should not be invoked except in the case of egregious conduct on the part of" appellant. Id. at 393. Connors v. Sexton Studios, 270 N.J. Super. 390, 393 (App. Div. 1994)."

connected to a case adjudged a year ago by Mercer County Superior Court Judge Mary C. Jacobsen, who dismissed the lawsuit filed by South Jersey power broker George E. Norcross III against Gov. Phil Murphy alleging that the governor had unlawfully formed a task force to investigate the state's multibillion-dollar tax-incentive programs.[7]

Mercer County Superior Court Judge Mary C. Jacobson also denied a request by Parker McCay and their associates to modify subpoenas served by the task force. She said there was no evidence in Parker McCay's and their associate's lawsuit to support the plaintiffs' contention that the task force was conducting a sham investigation. The task force has questioned whether Parker McCay and their associates misled state officials on their applications for tax credits. The Respondents Misrepresentation of Petitioner's receipt of a Traffic Citation is also absurd and addressed thoroughly in the Petition and underlying amended complaint which was attached with Exhibits supporting that fact that Petitioner did not receive it by mail, and neither did the District Court. Respondents failed to file a copy of the purported Traffic Citation. Respondents did in fact file a copy of the Invalid Subpoena to Testify. The void District Court Order addressed on Page 8 of the Respondents Reply Brief was issued in direct violation of Due Process, Fed. R. Civ. Pro. 8(a), 54(c) and 59. Respondents Position in ignoring the abuse of process facts set forth in the underlying complaint as to their Abuse of Subpoena Power does not constitute Petitioner's claims surrounding respondents abuse of subpoena power as lacking any grounding in the law.

Concluding that district court's decision to enforce administrative subpoena was reviewed for abuse of discretion ("[T]he comparatively

[7] Superior Court Of New Jersey Appellate Division Docket NO. A-5237-18T4 https://www.insidernj.com/nj-superior-court-dismisses-appeal-ruling-norcross-suit/

greater expertise" of the district court may counsel in favor of deferential review). District courts decide, for instance, whether evidence is relevant at trial, Fed. Rule Evid. 401; whether pretrial criminal subpoenas are unreasonable in scope, Fed. Rule Crim. Proc. 16(c)(2) ; and more. These decisions are not the same as the decisions a district court must make in enforcing an administrative subpoena. But they are similar enough to give the district court the "institutional advantag[e]," Buford, 532 U.S., at 64, 121 S.Ct. 1276 that comes with greater experience. For another, as we noted in Cooter & Gell, deferential review "streamline[s] the litigation process by freeing appellate courts from the duty of reweighing evidence and reconsidering facts already weighed and considered by the district court," 496 U.S., at 404, 110 S.Ct. 2447 —a particularly important consideration in a "satellite" proceeding like this one, ibid., designed only to facilitate the EEOC's investigation. Citing McLane Co. v. Equal Emp't Opportunity Comm'n 137 S. Ct. 1159 (2017)

III. LOWER FEDERAL COURTS PATTERN AND PRACTICE THAT INFRINGES UPON DUE PROCESS IN PRO SE CIVIL RIGHTS ACTIONS

Respondents argument in regard to El v. Wehling, et. al., [Exhibits C, D, E, F, G] are also absurd and frivolous, the Supreme Court should issue a Writ of Certiorari in that case as well. In El v. Wehling , the Third Circuit stated:

We cannot agree with the District Court that El's document titled "Amended Complaint" does not satisfy the requirements of Rule 8(a)(2). In this document, ***El has asserted seven claims of malicious prosecution*** *and conspiracy to commit civil rights violations. Each count sets forth the supporting facts and the defendants against whom the count is asserted. A liberal reading of the "Amended Complaint," see Haines v. Kerner, 404 .S. 519, 520 (1972), reveals that El is also raising claims of unlawful search and seizure and illegal arrest. In sum, El's document contains "a short and plain statement" of each of his claims, Fed. R. Civ. P. 8(a)(2) and provides the defendants "the type of notice of claim . . . contemplated by Rule 8," Phillips, 515 F.3d at 233.El required the District Court's leave to amend because he had already attempted to amend three previous times. See Fed. R. Civ. P. 15(a)(2). Under Rule 15(a)(2),courts "should freely give leave when justice so requires." When considering pro se complaints, courts should not deny leave to amend "when a liberal reading of the complaint gives any indication that a valid claim might be stated." Branum v. Clark, 927F.2d 698, 705 (2d*

Cir. 1991); see also Eldridge v. Block, 832 F.2d 1132, 1135-36 (9th Cir. 1987) (noting that "a pro se litigant bringing a civil rights suit must have an opportunity to amend the complaint to overcome deficiencies unless it is clear that they cannot be overcome by amendment). Here, El's "Amended Complaint" met the requirements of Rule 8(a)(2) and addressed the District Court's previous concern that it was "unable to tell which of the many counts listed in the Complaint pertain to which defendants, or which acts of defendants violated which of Plaintiff's rights." Accordingly, we agree with El that the District Court abused its discretion in denying his motion to reopen and for leave to file a fourth amended complaint. See Connelly v. Steel Valley Sch. Dist., 706 F.3d 209, 217(3d Cir. 2013); Jackson v. Danberg, 656 F.3d 157, 162 (3d Cir. 2011). Instead, the District Court should have granted his motion and directed that his "Amended Complaint" be filed. Citing Aemer. el v. Lynn Wehling, no. 13-3637 (3d cir. 2013)

In El v. Wehling, similar to here, the District Court intentionally did not address Petitioner's Malicious Prosecution claims against the defendant Wehling.

"Malicious prosecution The Fifth Amended Complaint contains repeated and varied allegations of investigative and prosecutorial misconduct, stemming not only from the charges against Plaintiff, but also his attempt to pursue citizen complaints against many of the named defendants in this case. It appears, however, that Plaintiff's only potentially viable claims for malicious prosecution are against Webb-McRae, Flynn, Riley, Accosta, and Duffy. Plaintiffs motions for reconsideration[8] are directed atg the Courts April 23, 2015 Opinion and Order [Docket Items 64 & 65], screening Plaintiff's Fifth Amended Complaint under 28 U.S.C. 1915(e)(2), in which the Court permitted only Plaintiffs claims for unlawful search and seizure, excessive force, false arrest, and ***malicious prosecution*** *to proceed. The Court permitted only the following four § 1983 claims to proceed: (1) unlawful search and seizure (against Defendants Lynn A. Wehling, Steven O'Neill Jr., Gamaliel "Gami" Cruz, and Kenneth Sirakides); (2) excessive force (against Defendant Steven O'Neill Jr.); (3) false arrest (against Defendants Wehling, O'Neill, Cruz, and Sirakides); and (4)* ***malicious prosecution[9] (against Defendants [1]Jennifer [2]Webb-McRae;***

[8] Rather, the rule permits a reconsideration only when "dispositive factual matters or controlling decisions of law" were presented to the court but were overlooked. See Resorts Int'l v. Great Bay Hotel and Casino, 830 F. Supp. 826, 831 (D.N.J. 1992); Khair v. Campbell Soup Co., 893 F. Supp. 316, 337 (D.N.J. 1995).

[9] "The Court of Appeals found that Plaintiff "asserted seven claims of malicious

[3]Jonathan M. Flynn, [4] John Riley, [5] Inez Accosta, and [6] Edward Duffy). *Id. at *16. See El v. Wehling, civil. 12-7750 (JBS/JS), 2015 WL 1877667, at *1 (D.N.J. Apr. 23, 2015). " Although Plaintiff identifies supposed errors in the Court's Opinion as to certain Defendants, including Wehling and Hogan, Plaintiff has not identified an intervening change in controlling law; the availability of new evidence not previously available; or the need to correct a clear error of law or prevent manifest injustice, as required under L. Civ. R. 7.1(i). Civil Action No. 12-7750 (JBS/JS) 08-25-2015 AEMER K. C. EL, Plaintiff, v. LYNN A. WEHLING et al., Defendants.*

Here the Supreme Court may observe the District Courts practice in creating structural errors to the detriment of Petitioners civil rights action in sole favor of his opposition. Judge Simandle's intentional disregard of Petitioners malicious prosecution claim against the defendant Wehling is no different that Judge Kugler's practice in this instant matter in disregarding Petitioners abuse of process claims against Respondents. Judge Simandle in like manner as Judge Kugler in this matter now before the Supreme Court violated Petitioners due process and leaves tactics that qualify as a pattern and practice. The pattern and practice of due process violations are obvious 1) the District Court's practice of blatant disregard of direct evidence produced by the defendants that supports Petitioner's allegations for intended purpose of denying him relief afforded by law because of his race (Moor) and 2) Misrepresentation of facts and evidence to the contrary for purpose of denying him relief afforded by law because of his race (Moor). The Wehling case is a good example of the lower Federal Courts pattern and practice. The lower Federal Courts, in

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prosecution and conspiracy to commit civil rights violations," as well as "claims of unlawful search and seizure and illegal arrest." El v. Wehling, 548 F. App'x 750, 752 (3d Cir. 2013).

Wehling were in possession of three (3) forged arrest warrant applications that were indisputably never signed by a Judicial Officer and lacked probable cause findings in direct violation of the Fourth Amendment. The documents possess only and solely Wehling's signature. Petitioner also provided a letter from the Cumberland County Trial Court Administrator further confirming that no judge signed the arrest warrant applications prepared by the defendant Wehling against Petitioner, which were used to obtain an unlawful conviction and fine payments. The conviction was reversed by the same Court that entered it. Following reversal, the matter was dismissed in Petitioner's favor. Further, Judge Thomas North (Vineland Municipal Court) affirmed that the arrest warrant applications were not signed by a Judicial Officer and lacked findings of probable cause on the record. [See attached Transcripts Exhibits [H], [I] . A state judge (John A. Kasper- Vineland Municipal Court) found probable cause against Wehling under Federal and State criminal codes.[10] In that case the District Court disregarded its duty to analyze the three (3) arrest warrant applications. The District Court denied Petitioner equal benefit of the rights guaranteed in 18 U.S.C. § 3771 and failed to observe its duty under the doctrine of collateral estoppel by ultimately and unintelligibly challenging the probable cause determinations made against Wehling by State Judge Kasper. See El Mujaddid v. U.S. Dist. Court for the Dist. of N.J. U.S. Supreme Court 6 Oct 2014.

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[10] "Plaintiff appears to contend that Judge Kasper found probable cause against Wehling for "crimes in violation of N.J.S.A. 2C:13-8 (Human Trafficking), N.J.S.A. 2C:30-6 (Crime of Official Deprivation of Civil Rights), N.J.S.A 2C:28-2 (False Swearing), N.J.S.A. 2C:28-4 (False Reports) and 18 U.S.C. 1581 (Peonage) the federal human trafficking act." (Id. ¶ 97.) See El v. Wehling Opinion Civil Action No. 12-7750 (JBS/JS) 04-23-2015

A State Judge (Robert Millenky) also found that Wehling lacked probable cause.[11] Petitioner also sued Wehling and accomplices for abuse of process, malicious abuse of process, malicious use of process, malicious Prosecution, etc. under alternative theories of liability found in common law, civil rights acts, human trafficking acts, civil rico acts). In all his opinions or memorandums, it may be observed, that to the detriment of Petitioners civil rights action, Judge Simandle consistently did not discuss the aforementioned claims in context of the defendant Wehling (County Detective) whom like the Kalina (County Detective)[12] signed sworn documents as a witness. Kalina was held liable. The Lower Federal Courts overlooked Kalina. Wehling was giving impunity by means of denying Petitioner due process. Judge Simandle often misrepresented or misstated petitioner's allegations regarding the three (3) arrest warrant applications by referring to them as a "Search Warrant". Here, Judge Kugler refrained from discussing abuse of process, malicious abuse of process and the attached exhibited invalid subpoena to testify [Exhibit "A"] filed by both parties in context of any named defendant and then treated the document as if no parties filed it at all. Similar to Judge Simandle's misstatement of the invalid arrest warrant applications as search warrants, Judge Kugler while only in possession of an invalid subpoena to testify [Exhibit "A"] would not reference the subpoena [Exhibit "A"], but would reference a traffic citation, where the District Court record did not possess a copy of a traffic citation. Again, the respondents never

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[11] El Mujaddid v. Cumberland County Prosecutor's Office, City of Vineland et. al., Superior Court of New Jersey Law Division CAM-L4514-13 2014 [Exhibit K]
[12] Kalina v. Fletcher, 522 U.S. 118 (1997)

filed a copy a traffic citation, but respondents did file a copy of the invalid Subpoena to testify [Exhibit "A"]. In Wehling, Judge Simandle stated:

> *"On that same date, Plaintiff "submitted an OPRA request to the Municipal Court and obtained copies of the CDR 2 Securities forms styled as Arrest Warrants . . . and discovered more false statements and the fact that the documents had no verified findings by a Judicial Officer in accordance with the Rules Governing the Courts of New Jersey." (P. 7) Notably, the principal allegation in the Fifth Amended Complaint is that Wehling falsified and/or forged the search or arrest warrant which purportedly justified the April 21 search. (P.20) Plaintiff alleges that the "CDR 2 Securities Forms styled as Arrest Warrants created 4/21/10 [were] clearly un-signed by a Judicial Officer," but Defendant Accosta allegedly failed to provide Plaintiff with these documents in discovery. (Id. ¶¶ 91-92.) Plaintiff alleges that he was subject to an unconstitutional search and seizure on April 21, 2010 when officers searched the house where he was a guest without a valid arrest warrant and without probable cause.(P. 20)* UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY Apr 23, 2015, Civil Action No. 12-7750 (JBS/JS) (D.N.J. Apr. 23, 2015)

Here the Supreme Court can observe the District Court practice where Judge Simandle in fact re-stated Petitioners allegations that the three (3) invalid arrest warrant applications subject of concern in that case and prepared by Wehling were forgeries [See Exhibits [H], [I], [J]] and lacked probable cause findings. When that matter returned to the Third Circuit, it incorrectly opined to the contrary in stating the following:

> *"Nor did Mujaddid plausibly allege that the warrants were forged.* Malley v. Briggs, 475 U.S. 335, 344-45 (1986)." *"Mujaddid never alleged that the warrant application [19] was "so lacking in indicia of probable cause as to render official belief in its existence unreasonable[.]"* UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT No. 16-1220

The District Court's pattern and practice resulting in due process violations are obvious. Judge Kugler took the same approach to managing Petitioner's instant

civil rights action, employing a strategy consisting of delay, misrepresentations, omissions, and mistreatment of evidence. Judge Simandle's opinions unlike Judge Kugler's would reference the direct evidence such as the invalid arrest warrant applications subject of El v. Wehling, but Simandle's opinions do not provide his own personal finding regarding his observation of those invalid arrest warrant applications. Judge Simandle like Judge Kugler here would only recite piece meal allegations made by Petitioner regarding those invalid arrest warrant applications that violated his rights guaranteed by the Fourth, Thirteenth and Fourteenth Amendments of the United States Constitution. The State action giving rise to Wehling like the underlying case arising from State action, now before the Supreme Court was also dismissed in Petitioner's favor. In this case Judge Kugler overlooked the factual allegations made in the complaint regarding the invalid Subpoena to testify [Exhibit "A"] attached to all the pleadings filed by Petitioner. Judge Kugler piece meal facts extracted from different paragraphs in the Fourth Amended Complaint to form the following citation used by respondents in their reply brief.

> *The Order cited an example from the complaint, alleging the respondents "fabricated evidence' and 'used the threat of prosecution for the purpose of extortion,' conspired to frame him for careless driving in a conspiracy to deny him equal protection under the law because he is a Moor,' and engaged in a Jim Crow revenue[13] scheme[14] to gain a $200.00 debt' and*

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[13] "the Supreme Court report found that municipal leaders are increasingly relying on court fines and fees as a significant source of revenue — calling into question the overall fairness of local courts."
https://www.app.com/story/news/investigations/watchdog/investigations/2018/08/08/municipal-court-reform-nj/818677002/

[14] A 2016 Press investigation revealed that towns have become increasingly reliant on municipal court fines to fund their budgets and municipal court judges, who are appointed by local governments, often face pressure to drive revenue. "You have this unfortunate reality where you have some local officials who have totally

states that [respondents] 'distorted the even-handed pursuit of justice,' all without factual support." (Id., page 2, fn. 1).

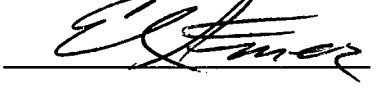
Once again, here the Supreme Court may observe the respondents repeated failure to take cognizance of their abuse of subpoena power. Indeed, respondents fabricated evidence, which is thoroughly discussed in his Fourth Amended Complaint. See attached [Exhibit "A"].

"Finally, the judge found that defense counsels' subpoena practice violated both RPC 3.4.(c) and RPC 4.1. by "knowingly violating the Rules and making false statements to the person[s] to whom he addressed the documents." Superior Court Of New Jersey Appellate Division Docket NO. A-4708-99T3 Tony Cavallaro, Plaintiff-Respondent, v. Jamco Property Management, Defendant-Appellant, and JML Landscaping, Inc., and Village Commons, Defendants. Argued October 4, 2000 - Decided October 23, 2000

CONCLUSION

Respondents do not deny issuing the subpoena. The lower federal courts are making opinions stating the precise opposite of what the Petitioners Complaints allege or state in conjunction with disregarding evidence that supports those claims. The Supreme Court must intervene. Certiorari should be granted because the petition presents as a ground for reversal the want of authority in the Westhampton Municipality or personnel to issue the subpoena [Exhibit "A"] to Petitioner.

Respectfully Submitted



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lost sight of the justice aspect of our judiciary," said Sen. Declan O'Scanlon, R-Monmouth, who has been at the forefront of the reform effort. "There are local judges who brag at cocktail parties about how much revenue they generate for the municipalities they work for. That is more than unfortunate, that is disgraceful." https://www.app.com/story/news/investigations/watchdog/2019/08/14/municipal-court-reform-require-major-changes-njs-laws-report-finds/1999922001/