20-6667

IN THE SUPREME COURT OF THE UNITED STATES

No: 19-3700

RONALD DOUGLAS, Petitioner v.

MO. STATE ATTORNEY GENERAL JOSH HAWLEY & SAID OFFICE'S OTHER OFFICIALS; CHARLES RETTIG IRS COMMISSIONER & EMPLS. OF THE IRS; KENNETH ZELLERS ACTING DIR OF THE MISSOURI DEPARTMENT OF REVENUE EMPLOYEES OF THE MO. DEPARTMENT OF REVENUE & THE TREASURER AS CUSTODIAN OF THE SEC. INJURY FUND; U.S. ATTORNEY GENERAL WILLIAM BARR & EMPLOYEES OF THE ATTORNEY GENERAL'S OFFICE; THE TAX COURT; RICK STEVENS, PRESIDENT OF CHRISTIAN HOSPITAL & EMPLOYEES OF CHRISTIAN HOSPITAL NORTHWEST; AT&T; DR. SETH TILZER; THE BANKRUPTCY COURT OF THE EASTERN DISTRICT OF MISSOURI; GOVERNOR MIKE PARSON AND EMPLOYEES OF THE STATE OF MO.; JUDGE MAURA B. McSHANE; JAY ASHCROFT MO. SEC. OF COMMERCE & SECRETARY OF STATE; U.S. SECRETARY OF COMMERCE WILBUR ROSS, THE DEP. OF COMMERCE'S EMPLOYEES, EMPLOYEES OF NATIONAL TELECOM. & INFORMATION ADMINISTRATION & THE DIRECTOR OF THE OFFICE OF TELECOMMUNICATIONS; U.S. SECRETARY OF THE INTERIOR DAVID BERNHARDT & EMPLOYEES OF DEPARTMENT OF INTERIOR; THE CITY OF MOLINE ACRES' ATTORNEY, ITS EMPLOYEES & ITS INSURER; JENNIFER TIDBALL DIR. OF THE DEPT. OF SOCIAL SERVICES &EMPLS. OF THE DEPARTMENT OF SOCIAL SERVICES; BETSY DEVOS U.S. SECRETARY OF EDUCATION & EMPLS. OF THE DEPT. OF EDUCATION; CHRIS SLINKARD DIRECTOR OF THE MO. DIVISION OF EMPLOYMENT SECURITY & EMPLOYEES OF THE MO. DEPARTMENT OF EMPLOYMENT SECURITY; COMMISSIONER AJIT PAI, EMPLOYEES OF FEDERAL COMMUNICATIONS COMMISSION & BRENDAN CARR; ANNA HUI MISSOURI DIRECTOR OF LABOR & INDUSTRIAL RELATIONS & EMPLOYEES OF THE LOBOR & INDUSTRIAL RELATIONS COMMISSION; MARK STRINGER, DIRECTOR OF THE DEPARTMENT OF MENTAL HEALTH IN THE STATE OF MISSOURI, EMPLOYEES OF THE DEPT. OF MENTAL HEALTH & EMPLOYEES OF THE METROPOLITAN ST. LOUIS PSYCHIACTRIC CENTER; ANDREW SAUL ACTING COMMISSIONER OF SOCIAL SECURITY & EMPLS. OF THE SOCIAL SECURITY ADMIN.; THOMAS F. GEORGE OFFICE OF THE CHANCELLOR & EMPLOYEES OF THE UNIVERSITY OF MISSOURI ST. LOUIS; ANDREW MARTIN CHANCELLOR (CHAIR) WASH. UNIVERSITY'S VICE CHANCELLOR FOR HUMAN RESOURCES & EMPLOYEES OF WASH. U.; WASH. UNIVERSITY POLICE DEPARTMENT & ITS ATTORNEY; WARNER L. BAXTER CHAIRMAN PRESIDENT & CHIEF EXECUTIVE OFFICE OF AMEREN CO., EMPLOYEES OF AMEREN ELECTRIC CO. & ITS INSURER; TYLER ASHER PRESIDENT OF SAFECO INSURANCE, EMPLOYEES OF SAFECO NATIONAL INSURANCE & SAFECO GROUP OF INSURANCE COMPANIES; ADMINR. ANDREW WHEELER, EMPLOYEES OF THE U. S. ENVIRONMENTAL PROTECTION AGENCY & THE FEDERAL INTERAGENCY COMMITTEE ON AVIATION NOISE; ACTING REGIONAL 7 ADMINISTRATOR EDWARD H. CHU, EMPLOYEES OF THE MO. EPA & THE MO. AIR CONSERVATION COMMISSION; ELAINE LAN CHAO U.S. SECRETARY OF TRANSPORTATION & EMPLOYEES OF THE FEDERAL AVIATION ADMIN.; ADMINISTRATIVE AIDE TO THE CHIEF OF POLICE (PRIVATE SECURITY); JANET L. SCHANZLE SECURITY ARMORED CAR. & ITS INSURERS; MO. BOARD OF REGISTRATION FOR THE HEALING ARTS

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On Petition for a Writ of Certiorari from the U.S. Court of Appeal Eighth Circuit to the U.S. Supreme Court

QUESTION PRESENTED

The trustee and/or Ronald Douglas (the Debtor) in possession hereby serves this notice and partitions the Court to order, judge or decree: declaratory relief pursuant to 28 U.S.C. 2201, and/or 536.050 RSMo declaratory judgments granting Certiorari to the U.S. Supreme Court in opposition to the heretofore said Notice of Proposed Rulemaking (NPR), which suggests that the Federal Communications Commission along with the other defendants may conspiratorially act in furtherance of the heretofore exclaimed conspiracy. In violation of section 47 U.S.C. § 401(a), which provides the district court with jurisdiction over actions by the government in which it alleges failure to comply with the Communications Act, including the charge of broadcasting without a license, granted jurisdiction to the district court over any valid defense to the charges, United States v Dunifer 997 F. Supp. at 1238. (1) Whether we find the analysis in these cases to be persuasive and hold that the district court had and this court has exclusive jurisdiction over the in rem eminent domain action; where the Petitioner request that the Department of the Interior (DOI) develop regulations that would prohibit the sale or transfer of the 2411 and 2417 gardner property as condemned by the City of Moline Acres and Ameren U. E. on or about year 2000 [Moline Acres' eviction of the Petitioner by their police officers' unlawful kicking in the doors of the 2417 gardner real property on October 28-2002 and having Ameren U.E. unlawfully disconnect electric service before the electric and mortgage payments were due also the accumulation of theft & vandalism damages (with Safeco, the insurer, included responsibility)] except where such sale or transfer is authorized by an Act of Congress. Including the Debtor's constitutional challenge to a provision of the heretofore said violations of law conspiratorially made by defendants during the last thirty-eight years (rulemaking) and/or Government owned stations section 47 USCS 305 adopted by defendants as unconstitutionally overbreadth, vague, in violations of Article XIX of the United Nations Declaration of Human Rights, Article XIX of the International Covenant on Civil and Political Rights and the Communications Act 47 U.S.C. 303(g) "necessarily requiring the formulation of policy and the making of rules to fill any gap left, implicitly or explicitly, by Congress" – through the promulgation of rules and regulations – something that is typically conducted as a matter of course under the Administrative Procedure Act, 5 U.S.C. § 553 ("APA") and cannot coerce Plaintiff/Petitioner to pay a garnishment to AT&T under such circumstances. Nonetheless, defendants have never afforded interested persons or the public

the opportunity to provide comment and guide the program through a rulemaking under the APA. Consequently, in this case the FCC's artificial extremely low frequency program lacks substantive rules and regulations to ensure its activities are: transparent; based on reliable information; appropriate; protective; safe, ethical, and humane; and consistent with all applicable laws, policies, and American values. Therefore, Petitioner seeks a formal rulemaking under the APA, including notice and an opportunity for public comment and final promulgation of substantive regulations, that will fill gaps in the existing statutory scheme, set a regulatory framework for program activities, and ensure the program's consistency with all applicable laws, policies, the best information, and American values.

WHEREFORE Petitioner challenges the sunsetting of the rule and pleads for reversal on the following grounds: (2) is the FCC's decision arbitrary and capricious in that it departs from its own established obligation for wireless providers to provide service to the public "indifferently"? (3) is the decision arbitrary and capricious in that the FCC lacks an adequate basis in the record for its "administrative costs" justification? (4) does the FCC lack an adequate basis in the record on which to base its predictive judgment that future competition would not justify continued imposition of the rule? and (5) did the agency fail to provide adequate notice of the heretofore said rule-making.? We have jurisdiction to review the FCC's final orders pursuant to 47 U.S.C. 402(a) and 28 U.S.C. 2342(a). Parties who have not been a party to the proceeding below must petition the FCC for reconsideration of an order prior to seeking review in this court. *See* 47 U.S.C. 405(a). The court must set aside an agency's rule if it is arbitrary, capricious, abuse of discretion or otherwise not in accordance with law. *Cincinnati Bell Tel. Co. v. FCC*, 69 F.3d 752, 758 (6th Cir. 1995) (citing 5 U.S.C. 706(2)(A)). Indeed, Missouri law recognizes that a threat may be delivered via intermediary. Alexander v. State, 864 S.W.2d 354, 357 (Mo.App. 1993). It is sufficient that the threat reaches the intermediary, whether a person, electronic device, or the postal service. And here the record contains sufficient evidence to support the jury's inference that the threat is a credible one, i.e., intended to cause fear.

(6) Is the Secretary of the Interior under legal obligation to prepare a programmatic environmental statement on this heretofore said broad contamination of the populous with artificial extremely low frequencies program, for the reasons set forth, an Environmental Impact Statement (EIS) being required at the clearly pre-decisional stage at which the OMB

or an agency submits a mere appropriation request which has yet to be formally incorporated into the budget transmitted to Congress by the President? (7) If so, did the District Court commit error in rendering its ruling that Douglas' annual budget request for the Clean Air Act will not be accompanied by an EIS on the biological effects of artificial extremely low frequencies? (8) And is the OMB required to establish the new procedure by including artificial extremely low frequencies on list of pollutants in order to comply with NEPA?

(9) Having determined that the district court had and this court has exclusive jurisdiction to adjudicate the petition (the Exhibit B) and the medical affidavit under 538.225 RSMo. we must consider whether to invoke the doctrine of primary jurisdiction; because the issue of the constitutionality of the governmental objectives in extremely low frequency broadcasting as contested in this case regulations has yet to be addressed by the FCC, at least in the context of the present litigation. The circumstances in these cases are not the same; (As heretofore noted, the FCC in the Dunifer forfeiture proceeding held the microbroadcasting regulations did not violate the First Amendment.) See Bent Oak, 19 F. Supp. 2d at 744-48 (applying doctrine of primary jurisdiction and dismissing case without prejudice because no administrative proceeding currently pending); United States v. Dunifer, 997 F. Supp. at 1238 (noting earlier stay of litigation under doctrine of primary jurisdiction in light of then-pending FCC forfeiture proceeding); cf. Rosenthal & Co. v. Bagley, 581 F.2d 1258, 1260 (7th Cir. 1978) (holding exhaustion of administrative remedies doctrine retains its validity even when the collateral judicial action challenges the constitutionality of the basic statute under which agency functions); see also Turro v. FCC, 859 F.2d 1498 (D.C. Cir. 1988) (court of appeals review of FCC order denying request for waiver of FCC rules); WAIT Radio v. FCC, 418 F.2d 1153 (same; remanding matter to FCC for statement of reasons for denial of waiver). (10) Under the heretofore said circumstances is the Administrator required under Act Sec. 112(b)(1)(B), 42 U.S.C. Sec. 7412(b)(1)(B) (1982) (but failed), to publish proposed regulations establishing emission standards for a pollutant (frequencies that are beamed from, earth orbiting satellites to the surface of the earth that are detrimental to health and welfare? (11) If people are experiencing an (EMF-induced biological effect, telepathy) from a steady-current tether satellite system; the degree of control that a person would exert over unconscious mental functioning, critical element, is the knowledge of the trial participants that they are subject to such observation, an element which is, of course, present in this case. It assumes that people

can exert some control over unconscious functioning. That experiencing or expressing certain repressed material would be dangerous. Under said circumstances may duress, or coercion constitute a defense to a criminal charge? (12) Can a witness's apprehension of physical and psychological abuse exhibited towards the Petitioner by the police and the other defendants, the state and the federal Government be an unusual susceptibility to coercion? (13) However, recognized the Fifth Amendment prohibition of extraction of information by "exertion of said improper influence" of extremely frequencies, can the speaker's expressive activity be restricted under the First Amendment "captive audience" doctrine. Frisby, 487 U.S. at487, 108 S.Ct. at 2504?

(14) Now Petitioner extrapolates from the principle to the situation at hand, contending that: does the limiting of customers of electromagnetic spectrum providers because of race, color and/or disability [such as in the petitioner case, to dealing only with racial and disability discriminatory civil and/or criminal conspiratorial-based carriers despite the benefits non-conspiracy-based carriers may be able to provide to customers] violate the established principle articulated in *Hush-a-Phone*? Carriers must engage in just and reasonable practices and that their practices cannot be unjustly or unreasonably discriminatory. *See* 47 U.S.C. 201(b) & 202(a). The *Hush-a-Phone* decision set out a "public detriment/private benefit" test for FCC action. In that decision, the D.C. Circuit determined that the tariff at issue was neither just nor reasonable under 201 and 202 *because* it was an unwarranted interference with a person's use of their own telephone (in this case it is an unwarranted interference with a person's use of autonomy of thought). The justness and reasonableness requirements set out in 201 and 202 remain the criteria for FCC action. Thus, the *Hush-a-Phone* decision set forth other, more restrictive principles, and it recognize the existence of a customer's right to resell services as long as such was not publicly detrimental. Accordingly, we must regard the order under review as an arbitrary departure. *See Cellular Resale NPRM and Order*, 6 F.C.C.R. at 1720-22 (deciding that cellular carriers may deny resale capacity to fully operational facilities-based competitors on the basis that such would not violate the standards of 201(b) and 202(a)), *aff'd sub nom., Cellnet Communication, Inc. v. FCC*, 965 F.2d 1106 (D.C. Cir. 1992). (15) In its order, can the FCC possibly determine that the continuation of defendants heretofore said violations of law [conspiratorially made by defendants during the last thirty-eight years (rulemaking) and/or Government owned stations section 47 USCS 305 adopted by defendants as unconstitutionally

overbreadth and vague as complained of in these writings] be needed to ensure that providers' practices were just, reasonable and not unreasonably discriminatory under 201 and 202? (16) And can the developing competitive market under such circumstances ensure the reasonableness of carriers' practices? We decline to characterize the FCC's decision as arbitrary, capricious or not in accordance with law in light of Congress's directive to the FCC that it consider the competitive effect of its regulations and that it must "forbear from applying any regulation . . . if the Commission determines that enforcement of such regulation or provision is not necessary to ensure that [carriers' practices or regulations] are just and reasonable and are not unjustly or unreasonably discriminatory," 47 U.S.C. 160(a)(1) (1996).

While we are impelled to the conclusion that the conduct of the judges [of the Petitioner's State of Missouri resisting arrest case No. 02C0-4056, his Circuit Court cause (No. 05CC-1381), the dismissal by the single judged court of Plaintiff's/Petitioner's case #99CC - 002227 filed on 06-28-99, the condemning of his property (the 2411 and 2417 gardner real estate), Plaintiff's Jun 26 1997 bankruptcy case No. 97-46107-293, the dismissal by the single judged court of the Debtor's (Ronald Douglas') 12-31-2002 law suit Case No. 02CC-005041, his March 19, 2003 bankruptcy case (Number 03-43475-399); and the dismissal of the Debtor's (Ronald Douglas') adversary proceeding which he initiated on April 23, 2003 against Option One Mortgage Co. (Adversary Proceeding Number 03-4559) for failure to give notice, his August 12 2003 case No. 03-49789-399 and his April 07 2005 case No. 05-44550, the mandate of Plaintiff's (Ronald Douglas') cause (No. ED86694), his Missouri Court of Appeals case No. ED99667 denial of writ on March 11, 2013, his Missouri Court of Appeals case No. ED105202 denial of writ on January 23, 2017, in Plaintiff's State commitment to mental wards case with the City of Moline Acres, in Petitioner's claims against the Social Security Administration that mainly involve the failure of the agency to provide him a hearing within the last thirty-eight years that he has been drawing benefits, in the filing of his United States District Court case No. 4:19-CV-2354JAR on August 19, 2019 that was dismissed on November 20, 2019, an appeal was filed on December 20, 2019 to the United States Court of Appeals for the Eighth Circuit under case No. 19-3700, on April 15, 2020 the order of the United States District Court was summarily affirmed by the United States Court of Appeals, Petition for rehearing by panel was filed April 27, 2020, the petition for rehearing by the panel was denied as overlength on May 19, 2020.] have deprived Petitioner of a trial, suppressed the

heretofore said exculpatory evidence and violated the ABA Model Code of Judicial Conduct. Under said circumstances quoting the district courts' Judge John A. Ross's dismissal order, "From the complaint and supporting documents, plaintiff's claims are clearly frivolous See Denton v. Hernandez, 504 U.S. 25, 31 (1992). Plaintiff provides no factual basis whatsoever in support of his claims for espionage and conspiracy, which are patently absurd and unsupported by any colorable legal theory. Thus, the Court finds that plaintiff's complaint is frivolous and fails to state viable legal claims." Plaintiff provides the following factual basis in support of his claims for espionage and conspiracy, which are not patently absurd, unsupported and is based on a colorable legal theory. (17) Question, is expert testimony required in this case in order to establish whether or not a doctor has complied with his duty to communicate the advice of a proper diagnoses and treatment, necessary, under the given state of facts. Where although the medical professionals of the Social Security Administration do not deny that such advanced methods of spying (involving the monitoring and the attempt in controlling all of the Petitioner's thoughts and actions) exist. They are confusing the knowledge of the reception of the communication of their agreements to conspire and the intent requirements (as elements of this conspiracy) to be a symptom (hallucinations) of a severe mental disorder (schizophrenia paranoid type). Given rise in the circumstances of this case to a rebuttable presumption that the missing evidence (any witness statement and/or demonstration proving the presents in the environment of such reception through magnetoreception communication) would establish that the defendants [the defendant doctors (of the Social Security Administration, Christian Hospital Northwest, the Metropolitan St. Louis Psychiatric Center and Seth Tilzer M.D.) whom misdiagnosed the Petitioner with suffering from the schizophrenia and/or the paranoia psychological disorders] were negligent (or they were intentional) in their misdiagnosis of Plaintiff with having the schizophrenia and/or the paranoia disorders; and that this negligence was the proximate cause of the plaintiff's damages and/or his parents deaths. Although Plaintiff in this case has not, and never will, rely on the defense of mental disease; the State of Missouri treats his case as if he does rely on such defense by ordering a sua sponte competency hearing for him in his Missouri state resisting arrest case No. 02C0-4056 and acted equivocally in his other cases. Therefore, is the next step, for the state, to "identify a rebuttal witness before calling him or her at trial. Moreover, " 'whether a witness may be a proper rebuttal witness is determined by the [circuit]

court State v. Moody, 645 S.W.2d 152, 157 (Mo.App.1982) (citation omitted). State v. Kehner, 776 S.W.2d 396, 398 (Mo.App.1989), suggests that the state must disclose rebuttal evidence, if requested, under Rule 25.03. (18) How is it possible for anyone to appreciate the wrongfulness of their acts or conform their behavior if they so desired amongst so much governmental deceit, trickery, misrepresentation, concealment, lawlessness--and where the Court must dismiss defendants' charges made not in the Petitioner's favor on the ground that their prosecuting attorneys use of the subpoena violated 18 U. S. C. §6002 which provides for use and derivative-use immunity because all of the evidence they offered against him derived either directly or indirectly from the testimonial aspects of his immunized act of producing documents in proving his innocence--that resulted in a showing of prejudice to plaintiff as the result of defendants' conspiratorial withholding of exculpatory evidence that proves the Petitioner's innocence?

As a result, Petitioner claims in this lawsuit, pursuant to his duties as Debtor in possession, that the defendants [] have transfers of the Debtor's money totaling approximately as calculated in his Exhibit B (the petition). Your verdict must be for Plaintiff/Petitioner in accordance with: (19) Is the now defunct Option One Mortgage Co.'s pre and post-petition acts of lien creation via filing of claim against the Debtor's estate null as automatic stay violations? (20) Given the impossibility of a bright line definition, the Eighth Amendment is afforded a "flexible and dynamic" application. Gregg v. Georgia, 428 U.S. 153, 171, 96 S.Ct. 2909, 2924, 49 L.Ed.2d 859 (1976) (joint opinion). Is there direct evidence that defendants' heretofore said conduct increased the likelihood of violence so as to create cruel and unusual punishment in these Ronald Douglas cases? (21) Is the State of Missouri through its Attorney General by law authorized to protect the Petitioner and members of his family's health and welfare by implementing the Prevention of Significant Deterioration (PSD) program, See 42 U.S.C. §§ 7410(a)(1), (a)(2)(C), (D), & (J) and Title 18, United States Code, Section 3521 within the last thirty-eight years? (22) Where the Petitioner alleges, he was fraudulently induced to accept the heretofore said positions with the defendants; because they conspired and with physical and psychological force tortured and coercively deprived him of an ability to reason or was unable to understand and act with discretion in the ordinary affairs of life. Because defendants conspired, defrauded, entrapped and attempted the murder of him, and/or coerced others to conceal from him their prior plans to go by the law during the last thirty-

eight years. Did said disability prevent the petitioner from bringing suit during the last thirty-eight years? (23) Is the fraud, according to Plaintiff also, that defendants conspired and intentionally concealed knowledge of that from year 1982 through to the present time defendants attempted to take contrary positions with regard to the same matter in order to escape liability requiring review and reversal of the FCC's orders allowing an entity to criminally alter the areas of broadband, competition, the spectrum, the media, public safety and homeland security in the heretofore said racial and/or disability discriminatory manner and as contested by the Petitioner in his writings? (24) Is it true that defendants refuse to state the truth of the matter [In that since the Petitioner has been misdiagnosed with having the schizophrenia and/or the paranoia psychological disorders, he could not, and cannot, appreciate his injuries or its cause until his disability ceases to exist given the grounds for disciplining doctors of the SSA, Christian Hospital Northwest, the Metropolitan St. Louis Psychiatric Center and Dr. Seth Tilzer M.D. fore-whom misdiagnosed him with having the schizophrenia and/or the paranoia psychological disorders in violation of subdivisions (3), (4), (4)(a) and (14) of 334.100.2.] where having a serious mental illness on the part of the witness [Ronald Douglas (in this case)] cannot be used to contradict the occurrence of this conspiracy coerced against Ronald Douglas? (25) WHEREFORE, is it also true [that while the diagnosis of such mental illness is used by defendants to prejudice but has very little probative value in determining existence of agreement to commit a crime proved by either direct or circumstantial evidence, common scheme or plan [while the conduct of all participants in this case infer that such conspiracy exist]] that because defendants' procedures in Plaintiff's cases fall below the minimum requirements of the due process clause, those procedures are invalid, See Vitek v. Jones, 445 U.S. at 491, 100 S.Ct. at 1263; Wolff v. McDonnell, 418 U.S. at 557, 94 S.Ct. at 2975? (26) However, is this the Commissioner through the SSA's Appeals Council's and/or the ALJ's and/or other pertinent defendants' expert medical opinion of patients' mental state (a determination which is beyond their competence and unsupported by evidence of schizophrenia (paranoid type)) void because a conspiracy may be being coerced against a mentally ill person, (Orlikow vs. the United States of America 682 F. Supp. 77)? (27) Is this evidence on these heretofore said fraudulent concealments of defendants [that the Petitioner seeks Certiorari to the U.S. Supreme Court, and appeal to the Labor and Industrial Relations Commission's decision denying him unemployment benefits and workers' compensation

benefits for his permanent total disabilities of: 1. an actual disability of depression due to the heretofore said government conspiracy and 2. the perceived disability of schizophrenia (paranoid type) (a SSA's agency physician's misdiagnosis of him during the last thirty-eight years) from the Second Injury Fund] supportive evidence of that the defendant doctors that misdiagnosed the Petitioner with suffering with the schizophrenia and/or the paranoia psychological disorders, doctors' (of the Social Security Administration, Christian Hospital Northwest, the Metropolitan St. Louis Psychiatric Center and Dr. Seth Tilzer's) medical licenses are subject to discipline for conspiracy and repeated negligence, unprofessional conduct, conduct that was harmful to the patient, and incompetence for their treatment of their patient (Ronald Douglas) during the last thirty-eight years, in accordance with Section 334.100.2, RSMo. (L.F. 80) and on the grounds of falsifying Petitioner's files (and conspiracy in violation of the heretofore said laws) pursuant to section 610.123.3, RSMo? (28) Therefore, did all of this heretofore said evidence of conspiratorial unlawful conduct of defendants entrap the Petitioner and coerce him into working police enforced slave labor at Olivette 66 Service Center during the last more than twenty-one years in violation of 18 U.S.C. §§§ 1581, 1589 and/or 1584 (peonage and/or involuntary servitude)? (29) Does the doctrine of forfeiture by wrongdoing allow this court to forfeit defendants' rights to object to the admission of hearsay statements and defendants' right of confrontation and/or their constitutional right to confront a health care provider, a witness and/or specialist? (30) As so provided shall this case be remanded to the district court [due to the district court heretofore said errors and it's error in denying Petitioner his protections under section 538.225 by dismissing his case under 28 U.S.C. § 1915(e)(2)(B) in this racial and disability discrimination case under title III and/or 42 U.S.C. § 12101(b)(1), 42 U.S.C. 1981, 1982, 1983, 1985, 1986, in accordance with said "stray remark" of the defendants (in stating and/or even implying that there has not been a government conspiracy coerced against Plaintiff/Petitioner)] to serve as evidence of race discrimination in employment and housing, International Brotherhood of Teamsters v. United States, 431 U.S. 324, 97 S.Ct. 1843, 52 L.Ed.2d 396 (1977)?

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PETITION FOR A WRIT CERTIORARI

WHERREAS, there being no material to incorporate by reference; that defendants may take moneys as calculated in the Exhibit B affidavit (V.A.M.S. § 538.225) as a rule. The Petitioner hereby apply for appointment of Counsel, a legally qualified health care provider and/or specialists [(by the United States Supreme Court to order, make judgment or decree the Department of Education, Washington University, the University of Missouri St. Louis, BJC HealthCare and/or any qualified legal entity to obtain a health care provider as determined under the Hill v. Boles, 583 S.W.2d 141 (Mo. Banc 1979) and V.A.M.S. § 538.225.1,2,3,4,5)]. By service of the Exhibit B affidavit to a health care provider and/or specialist certifying merit of case under 538.225 upon defendants following the grant of this Petition for Writ of Certiorari. To order said parties to provide said health care provider and/or pay attorney's fees as required by law. Possibly due to their conspiratorial contempt of court. Thus, I have specifically, made application for a trial de novo in case No. 02C0-4056 on the decision made by Judge Thea A. Sherry and the state of Missouri; that BJC HealthCare and/or any other qualified care provider may sign and Plaintiff will submit said signed Exhibit B (an affidavit by a health care provider with said health care provider certifying merit of case under 538.225) praying that this court legally address each of Petitioner counts of Exhibits B (the affidavit under 538.225) and this document. Due to the State of Missouri's failure to punish violations of Petitioner's rights under § 242 and the other heretofore said laws amounting to an unacceptable practice of law Warrem v. Parrish, 436 S.W.2d 670 (Mo. 1969), and Nelson v. Grice, 411 S.W.2d 117 (Mo. 1967) during the last thirty-eight years.

Mainly because the State of Missouri through its Attorney General by law is authorized to protect the Petitioner and members of his family's health and welfare by implementing the Prevention of Significant Deterioration (PSD) program, See 42 U.S.C. §§ 7410(a)(1), (a)(2)(C), (D), & (J) and Title 18, United States Code, Section 3521 and not diagnose the

Petitioner with schizophrenia (paranoid type) within the last thirty-eight years. Where modeling of the electrodynamic tethered satellite system heretofore has been based on some unrealistic assumptions regarding uniformity of the plasma medium and constancy of the tether current. In addition, the simplest relationship has been chosen for the system velocity vector, magnetic field vector, and the vertical. These three directions have typically been taken to define a threedimensional orthogonal system (see Exhibit A about the satellite). Plaintiff claims to be at the center of a threedimensional orthogonal configuration of such system; it follows him every place; that he has gone during the last thirty-eight (38) years.

Vibrational absorption governs attenuation at the longest wavelengths. It is a complicated function of the effective charges, masses and sizes of the atoms that compose a solid. A bond between atoms in a crystal can be thought of as an attraction between positively charged ions (cations) and negatively charged ions (anions). Two ions joined by a chemical bond vibrate continuously like two weights connected by a stiff spring. If the weights are displaced by a periodic force that matches their vibrational period, energy will be efficiently transferred to the weights and will increase the amplitude of the vibration. The effect is known as resonance (Scientific American November 1988). In Martin Blank's book Electromagnetic Fields Biological Interactions and Mechanisms, it said, "A simple experiment first done by Kalmijn and Blakemore (77) demonstrates that the magnetotactic response is based on ferromagnetism. To achieve an increase in amplitude of the vibration, absorption governs attenuation at the longest wavelengths. Any human organisms within this electromagnetic field, ionospheric boundary and atmospheric cavity would receive the transmission of the source's code (could be the Petitioners brain signal at the center of this threedimensional orthogonal system) "dc", neuronal code or pattern. Any person within this electromagnetic field, ionospheric boundary and atmospheric cavity could transmit their "dc", neuronal code or pattern by forcing their "dc", neuronal code or pattern to match the vibrational period at the longest wavelengths. A sort of telepathic communication is the EMF-induced biological effect. Which permits masses of people to observe Petitioner's court process remotely. However, the critical element is the knowledge of the trial participants that they are subject to such observation, an element which is, of course, present in this case. If people are experiencing an (EMF-induced biological effect, telepathy) from a steady-current tether system; the degree of control that a person would exert over unconscious mental functioning. First, basically derives

from Freud's early writings and assumes that people have little or no control over their unconscious mental life. This dynamic, hypothesis states that, sexual and aggressive impulses seek gratification and repressive forces opposing the impulses interact dynamically, much as forces interact in the physical world. The other hypothesis, call the unconscious-control hypothesis (or, more simply, the control hypothesis), elaborates on ideas Freud put forth briefly in some of his later writings. It assumes that people can exert some control over unconscious functioning. According to this idea, people keep impulses and other mental contents repressed not because the repressive forces are necessarily more powerful than the unconscious impulses but because individuals can unconsciously decide (by extrapolating from the past and by assessing current reality) experiencing or expressing certain repressed material is dangerous.

The defense of duress or coercion has been considered infrequently by appellate courts of this state, the Supreme Court in State v. St. Clair, 262 S.W.2d 25 (Mo.1953). Stated that duress, or coercion, may constitute a defense to a criminal charge. A witness's apprehension of this physical and psychological abuse (cruel and unusual punishment) exhibited towards the Petitioner by the police and the other defendants, the state and the federal Government may constitute an unusual susceptibility to coercion. Malloy v. Hogan, 378 U.S. 1, 7, 84 S.Ct. 1489, 12 L.Ed.2d 653 (1964) recognizes that the Fifth Amendment prohibits extraction of information by "exertion of any improper influence." The natural embarrassment and confusion of a citizen on trial should not be increased by a realization that his voice and his difficulties are being used as entertainment for a vast ELF induced telepathic communication broadcast audience. The fear expressed by most persons when facing an audience or microphone is a matter of common knowledge, and but few defendants or witnesses can properly concentrate on facts and testify fully and fairly when so handicapped. * * * Such broadcasts are unfair to the Judge, who should be permitted to devote his or her undivided attention to the case, unmindful of the effect which his or her comments or decision may have upon this ELF induced telepathic communication broadcast audience.' American Bar Association, Opinions of the Committee on Professional Ethics and Grievances 426 (1957).

Thus, Petitioner claims that for over thirty-eight years the FCC has consistently applied to telecommunications common carriers the basic principle that their services must be offered which are privately beneficial and not publicly detrimental, Cellnet relies on a D.C. Circuit decision, *Hush-a-Phone Corp. v. United States*, 238 F.2d 266 (D.C. Cir. 1956); My

understanding is that this means without the heretofore said unlawful restrictions of defendants on services as the source of the articulation of the public's right to unrestricted non-detrimental use of common carrier telecommunications services. The petitioner identifies as the essence of the FCC's justification for its evolving resale policies a customer's right to have selected services without interference from the carrier using the services to induce cruel and unusual punishment unwittingly.

OPINIONS BELLOW

Because it appears that defendants heretofore said coercive conduct along with the City of Moline Acres' and Ameren U.E.'s unlawful condemnation claims are tactical measures to retaliate against Petitioner for his filing of case #99CC-002227 on 06-28-99 in the Circuit Court of St. Louis County and state of Missouri, listing the City of Moline acres as a defendant; in dealing with these issues of the government conspiring and acting in furtherance of the heretofore said extremely low frequency experiment and/or conspiracy of extortion, fraud, entrapment and murder being coerced against the petitioner during the last thirty-eight years. I ask the court to conclude, given those facts, that the defendants have forfeited their constitutional right to confront a health care provider, a witness and/or specialist. Because defendants heretofore said conspiracy and obstructionisms fraudulently concealed this medical malpractice case during the last thirty-eight years. I claim in this court a right to "actual damages suffered as a result of the government defendants' willful or intentional failure" to comply with the heretofore said laws and as contested in the Exhibit B (affidavit). Criminal defendants are guaranteed the constitutional right to confront the witnesses to be used against them at trial. See U.S. Const. amend. VI; N.M. Const. art. II, § 14. The confrontation right is robust, subject to just a few founding-era exceptions. Crawford v. Washington, 541 U.S. 36, 54 (2004). One of those exceptions arises when a defendant engages in certain forms of wrongdoing; and in these scenarios, the United States Supreme Court has often observed, the defendant may forfeit the confrontation right. See, e.g., Reynolds v. United States, 98 U.S. 145, 158 (1878); see also Giles v. California, 554 U.S. 353 (2008).

Thus, I have completed a petition/complaint (Exhibit B) with the intentions of perfecting a three thousand paged affidavit under the Hill v. Boles, 583 S.W.2d 141 (Mo. Banc 1979) and V.A.M.S. § 538.225.1,2,3,4,5): In this U.S. Supreme Court case and the Workers' Compensation case I complain; that defendants conspired and fraudulently concealed this

medical malpractice lawsuit (the conspiracy) during the last thirty-eight years. Including before, during and after the time Judge John A. Ross dismissed this U.S. District Court Case on November 20, 2019 under a provision in the federal *in forma pauperis* statute, 28 U.S.C. § 1915(d), authorizes courts to dismiss an *in forma pauperis* claim if, *inter alia,* "the action is frivolous or malicious."

To avoid the after the lapse of 90 days, Judge John A. Ross of the United State District Court Eastern District and the Division of Workers' Compensation's orders of the dismissal of the action for I would assume failure to comply with § 538.225, RSMo to [1] escape said decisions, [2] escape the effect of the en banc decisions of Laughlin v. Forgrave, Mo.Sup., 432 S.W.2d 308, and Yust v. Barnett, Mo.Sup., 432 S.W.2d 316,[2] and invoke the tolling effect of § 516.280, I argue that defendants' heretofore said conspiracy and obstructionism including Judge John Ross dismissal caused the delay. On its appeal the running of § 516.140 was tolled by § 516.280 because there was (a) sufficient evidence that in defendants' dealings following their pre and post-incident conduct defendants were and are guilty of improper acts, omission and fraudulent concealments of negligence with actual knowledge thereof, as required by Kauchick v. Williams, Mo.Sup. en banc, 435 S.W.2d 342; Smile v. Lawson, Mo.Sup. en banc, 435 S.W.2d 325, and Brown v. Grinstead, 212 Mo.App. 533, 252 S.W. 973, in malpractice actions, and (b) there was and is expert medical testimony that defendants failed to measure up to professional standards in the community in their pre and post-incident dealings with the Petitioner. Also, after a motion to proceed *in forma pauperis* and a complaint in the District Court, charging that. In view of the fact that § 516.280 applies to limitations in malpractice cases, Kauchick v. Williams, supra, we may determine whether there was sufficient evidence to justify a finding that defendants knew there was a malpractice conspiracy and fraudulently concealed the facts from the authorities and the Petitioner. Fraudulent concealment of this type would constitute an "improper act" within the meaning of § 516.280 and would toll the running of the 2-year limitation period until the fraud was discovered or could have been discovered through reasonable diligence. Smile v. Lawson, supra.

Said facts are supportive of the inference that these governmental officials were aware of a high probability of the existence of the facts in question. Where the conduct of the defendants (the SSA, Seth Tilzer M.D., Christian Hospital Northwest, the Metropolitan St. Louis Psychiatric Center and any pertinent defendant) in ruling that there was and/or there is

no conspiracy was manifestly and palpably beyond [their] authority.' " Bushman, 755 F.2d at 655, quoting Norton v. McShane, 332 F.2d 855, 859 (5th Cir.1964), cert. Denied, 380 U.S. 981, 85 S.Ct. 1345, 14 L.Ed.2d 274 (1965). In this case the diagnosis of the patient (me (Ronald Douglas)) with having schizophrenia and/or paranoia was not medically indicated or medically beneficial and some of which was harmful to the health and welfare of patients and all of which constituted medical incompetence, unprofessional or dishonorable conduct and professional failure to practice medicine in an acceptable manner consistent with public health and welfare. Substantial evidence exists when there is " 'more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.' " Richardson v. Perales, 402 U.S. 389, 401, 91 S.Ct. 1420, 1427, 28 L.Ed.2d 842 (1971) (quoting Consolidated Edison Co. v. NLRB, 305 U.S. 197, 229, 59 S.Ct. 206, 216, 83 L.Ed. 126 (1938)). On the whole record we cannot conclude that the defendants (the doctors of the Social Security Administration, Christian Hospital Northwest, the Metropolitan St. Louis Psychiatric Center and Dr. Seth Tilzer M.D. whom misdiagnosed me with suffering with the schizophrenia and/or the paranoia psychological disorders) findings are supported by substantial evidence because their testimony did not rise to the level of substantial evidence. This is an allegation of state action which, beyond dispute, brings this conspiracy within the ambit of the Fourteenth Amendment. It is an allegation of official, state participation in the conspiracy and extorting, defrauding, entrapping and attempting the murder of the Petitioner, accomplished by and through its officers with the participation of others. Along with defendants' fraudulent eminent domain proceedings and/or any of defendants' actions made in furtherance as a result of my lawful protest with the Missouri Department of Social Services and the Social Security Administration's refusal to pay the benefits lawfully due me proven in the Exhibit B evidence. Raising serious questions with respect to defendants' conspiratorial rendition by the Commissioner through the Social Security Administration's Appeals Council's and/or the ALJ's, Judge Thea A. Sherry's, Judge Maura McShane's, Judge John A. Ross and any other pertinent defendants of an expert medical opinion of patients' mental state. Which is beyond their competence. I also believe that a review of the medical evidence shows that the Commissioner through the Appeals Council miss-characterized the import of Dr. Max Blinder's opinion. The rendition of an expert medical opinion is beyond the Commissioner's through the Appeals Council and/or the ALJ's competence. Aubeuf v. Schweiker, 649 F.2d

107, 113 (2d Cir.1981). Accordingly, such observations are entitled to limited weight. See Deleon, 734 F.2d at 935; Rivera v. Schweiker, 717 F.2d 719, 724 (2d Cir.1983); Carroll v. Secretary of Health and Human Services, 705 F.2d 638, 643 (2d Cir.1983).

Whereas, a matter of law there was sufficient evidence and more particularly there was sufficient expert medical evidence that defendants are guilty of conspiracy and criminal negligence. There was and is sufficient evidence to comply with requirement entitling Plaintiff to submit fraudulent concealment because (1). A jury could find from the foregoing evidence that the ailments occurred at the time of the beaming of an extremely low frequency to the surface of the earth at the head of the unwitting participant as a result of injury to his nerves system caused him to suffer (1), depression (2), pain-induced aggression (3), escape (4), avoidance (5), sleep pattern (6), restricted activity and (7), the hearing of voices resulting in the experimental subject being depicted as of having a mental illness in disrespect of the established preponderance of the evidence twenty-four hours seven days a week during the last thirty-eight years, Sanders v. State, 738 S.W.2d 856, 857 (Mo. Banc 1987) combined with the Petitioner's infliction of hypertension as an objectively determined medical condition of severity which can reasonably be expected to give rise to his complaints of pain. Whether there was sufficient evidence to meet the requirement of number (2) is the subject matter of appellant's Counts in his Exhibit B (the petition/complaint and three thousand paged affidavit) in that governmental action made in furtherance of the intentional beaming of a steady-current transmission at plaintiff's head with an optical communication device to intercept all of the Petitioner's wire oral and electronic communications without authorization 18 USCS 2516. When this optical communication device is affixed to a steady-current tethered satellite system. This tethered satellite steady-current signal is received on the Earth's surface. So, that all structures formed would tend to be either resonant at that frequency or demonstrate some other sensitivity to it. This ionospheric cavity is resonant in the low-frequency ELF region, a fact that is of biological significance (see Exhibit A about the satellite). These Alfven waves interfere with the transmission of ionic and nonionic "DC" currents transmission that travels within the organisms on the surface of the earth 18 USCS 2511 (b) (i) (ii). "DC" currents fore which leaks with the ionospheric wave guide into the fast magnetosonic wave which is coupled to the Alfven waves. Because these "DC" current's functions are of governing the level of activity of the neurons proper; that is, the currents, via their polarity and magnitude, exert a

biasing effect upon the neuron's ability to receive, generate and transmit action potentials. The organisms that live on the earth surface ("DC" neuronal code or pattern) are being manipulated with a steady-current tether system. With the intent of disclosing to all persons within this electromagnetic field, ionospheric boundary and atmospheric cavity, of this tethered satellite system steady-current the contents of all of my wire, oral, and electronic communications (everything that I have been doing, saying and thinking during the last thirty-eight (38) years has been disclosed to every person in the electromagnetic field, ionospheric boundary and atmospheric cavity of the threedimensional orthogonal system of an earth orbiting satellite's steady-current that has been following me around every place; that I have gone during the last thirty-eight (38) years.). Thus, (3) defendants had actual knowledge that they caused the misdiagnosis of schizophrenia and/or paranoia by invading my privacy in said manner and concealing it with lies, deceit, trickery and misrepresentation during the last thirty-eight years; (4) with that knowledge defendants intended by their pre and post-incident conduct and statements to conceal from the Petitioner during the last thirty-eight yeas the fact that he has a claim against them for malpractice by reason thereof; (5) that defendants' acts were fraudulent, and (6) plaintiff is not guilty of lack of diligence in not sooner ascertaining the truth with respect to the said situation.

On Friday the twenty-second of May George W. Burford (the defendant employer at Olivette 66 Service Center) sent me home at twelve noon; because I had trouble walking. I suffer from weakening of my knee tendons. Without delivering money, delivering pizzas, servicing automobiles, being discharged for "whistle blowing", rehired on demoted terms and final discharge for "whistle blowing" (job requirements) due to defendants' conspiratorial lies, deceit, trickery, misrepresentations, concealments, extortion, fraud, entrapment and attempted murder in order to coverup said conspiracy, my depression, tooth loss, knee injury and hypertension would not have occurred. And without having to deliver money, deliver pizzas service automobiles, being discharged for "whistle blowing", rehired on demoted terms and final discharge for "whistle blowing" (job requirements), with depression, I would not have suffered weakening of my knee tendons; when I had to walk due to defendants' unlawful interference with my interstate and intrastate travel for more than twenty-one years. Workplace violence caused the loss of two jobs (Security Armored Car and Pizza Hut) (I could not drive my car during the last twenty-one years. I had to walk, take the bus or taxi to go anywhere.).

Due to the municipal defendants' police officers' invidious racial animus that caused depression in furtherance of the electronic stalking. By itself, my depression was neither a hazard nor a risk to me. Only in conjunction with and exacerbated by my work did my common condition subject me to injury. All this coerced me into working police enforced slave labor at Olivette 66 Service Center during the last more than twenty-one years in violation of 18 U.S.C. §§§ 1581, 1589 and/or 1584 (peonage and/or involuntary servitude).

On Tuesday May 26, 2020 I wrote a letter to my doctor at Betty Jean kerr People's Health Center 5701 Delmar Boulevard St. Louis, Mo 63112 · (314) 367-7848. She told me to go to Barnes-Jewish Hospital emergency. I waited all day in the waiting room and waited all night in a hospital bedroom. Before they told me; they wanted to keep me in their mental ward. The Petitioner has been disabled by the heretofore said governmental conspiracy and concealment of malpractice suit; health care providers with force placed him in mental wards. When he makes attempts in explaining to them; that somebody is electronically stalking him with extremely low frequencies beamed from earth orbiting satellite. And attorneys will not represent him. 632.300 RSMo states: If, a person presents a likelihood of serious harm to himself or others, the mental health coordinator may file an application with the court having probate jurisdiction pursuant to the provisions of section 632.305. Petitioner is not mentally disordered. He does not present a likelihood of serious harm to others nor himself. There is no legal basis for placing me in a mental ward. They released me on May 29, 2020 with the determination of that, "Schizophrenia spectrum disorder with psychotic disorder type not yet determined (CMS/HCC)" after I threaten to sui them. I did not attend the 6-02-20 10:15 Michael R. Jarvis MD appointment; because I feared that I would be unlawfully placed in a mental ward at the hospital in violation of Section 516.280 and the other heretofore said applicable law due to the fraudulent concealment conspiracy. Section 516.280, usually associated with fraudulent concealment and chiefly relied upon by Plaintiff/Petitioner, reads as follows: "If any person, by absconding or concealing himself, or by any other improper act, prevent the commencement of an action, such action may be commenced within the time herein limited, after the commencement of such action shall have ceased to be so prevented."

Therefore, I ask you to conclude, given those facts, that the defendants have conspired and forfeited their constitutional right to confront a health care provider and/or the witness and/or a specialist. Because defendants conspired and will not let me prove my case by

fraudulently concealing elements of the conspiracy. The judgment of the trial court (the ALJ and the Social Security Administration in that claimant's allegations are credible and true) must be affirmed. Because the complaint alleges that pursuant to the conspiracy respondents conspired amongst themselves to defame, defraud, entrap and attempted the murder of the Petitioner. As to actions made in furtherance of the government's indoctrination upon Plaintiff/Petitioner because of his race, color and/or disability designed to brainwash against him the people in his social environment by invading his privacy through broadcasting to the public and publishing in government files false and derogatory information about him. Defendants knew or by using ordinary care should have known of the existence of said conspiracy; because I informed all interested parties. I contend that; I was identified (by the audience) as the subject of the George Smilovici's defamatorily worded comedy act. At least as to the part that I am a musician and having difficulty proving to the SSA "social workers"; that "I am receiving information about my personal and private affairs through a sense other than the five major senses [(vision, hearing, smell, taste, and touch) magnetoreception communication (The ability of animals to obtain directional information from the geomagnetic field)" with his, "How many social workers does it take to change a light bulb, none, because the light bulb has got to want to change." Statement (and many other such statements from others)], because I am the subject of a (government and/or) non-schizophrenic investigation. From the record before us, we may conclude that there was no knowledge of any other local musician under such an investigation by the government during the relevant time period (see Exhibit R1).

Accordingly, Petitioner is entitled to an award of damages resulting from Option One's and all of the other actions that defendants made in furtherance of said violations of the discharge injunction. When two parties enter into a contract, each become obligated under the law to permit the other to perform his or her part of the bargain without interference. In other words, each party must reasonably avoid any action that would effectively hinder, obstruct or prevent the other party from undertaking or completing whatever the other party agreed to do. Plaintiff (Petitioner contends that the defendants (the City of St. Louis, the City of Moline Acres, Ameren U.E. electric Co. and Option One Mortgage Co.) conspired and prevented him from using the 2411 and 2417 gardner real estate (his property) as his principal residence due to their breach of implied warranty of habitability. The contracts Petitioner had with the

defendants (the City of St. Louis, the City of Moline Acres, Ameren U.E. electric Co. and Option One Mortgage Co.) are unconscionable as to the mutual relationships as to the same rights of the 2411 and 2417 gardner real estate due to their breach of implied warranty of habitability. The Debtor argue that the additional interest was not earned under 502(b)(2) of the Code and was not allowable as a claim against the bankruptcy estate. Apparently, the appropriate relief is the compelling of the now defunct defendant (Option One Mortgage Co.) to pay restitution of Mortgage payments and unearned interest for their breach of the obligation of Implied Warranty of Habitability. Under Missouri law "[a] contract implied in law is imposed on the 2411 and 2417 gardner real property's note without regard to promise or intention of Option One Mortgage Co. to be bound with the Debtor, the assent resting solely in legal fiction, the liability based in reason and justice. . . . It is a fictitious contract based primarily upon the principle of unjust enrichment, and it is essential that retention of the benefit by defendants be inequitable." Rackers and Baclesse, Inc. v. Kinstler, 497 S.W.2d 549 (Mo.App.1973). The Missouri Supreme Court has rejected the proposition that an express contract and an implied contract cannot arise out of the same circumstances. Body v. Margolin, 421 S.W.2d 761 (Mo.I967). In fact, the court emphasized that the rule that a promise by implication does not exist where the party has made an express promise cannot be imposed arbitrarily or inflexibly, and the rule is in opposition to a substantial amount of Missouri case law. Thus, it was the opinion of the Missouri Supreme Court that the rule which states that a promise by implication does not exist if a party has made an express promise is not supported by Missouri case law which allows a plaintiff to recover on the theory of quantum meruit. Id. At 767-77. It is clear that despite the existence of an express promise, an implied promise on the 2411 and 2417 gardner real estate note can arise out of the same circumstances. Body v. Margolin, supra; and it appears that Plaintiff has established that defendants' (Option One Mortgage Company, the City of Moline Acres, the City of St. Louis and Ameren U.E. electric Co.) conspiracy in their failure to comply with certification or with applicable law (such as an expressed and/or implied warranty of habitability and fitness, the "Minimum Housing Code Standards," Sections 441.500-4-H.640, RSMo 1969, V.A.M.S., Article 1, sections 26 and 28 of the Missouri Constitution and the Uniform Relocation Assistance and Real Property acquisition Policies Act of 1970 (42 USC Sec. 4601 through 4655) or with applicable law) the defendants' conduct is unjust under the theory of implied contract. Thus, plaintiff only need to

establish that the retention of this interest by defendants was unjust. The petitioner's specific asserted right to obtain restitution of Mortgage payments and unearned interest. The Debtor argues that the additional interest was not earned under 502(b)(2) of the Code and was not allowable as a claim against the bankruptcy estate. Debtor contends that the Bankruptcy Court cannot go behind the State Court judgment of Moline Acres. Under 11 U.S.C. 502, a proof of claim is deemed allowed unless a party in interest objects to that claim. Where such an objection is made, the Court must determine the amount of such claim as of the date of the filing of the petition and is to allow such claim in that amount except where that claim is unenforceable against the Debtor and unenforceable against property of the Debtor, or where such claim is for an unmatured interest, 11 U.S.C. 502(b)(1), (2). In the instant case, the objected to claim was reduced to judgment by the State Court three years prior to the Debtor's 2003 filings of his bankruptcy petitions. This judgment is secured by a recorded writ of fieri facias supported by the Missouri Constitution Art. I, § 26 and 28 in the City of Moline Acres. Therefore, the amount of the claim at the date of the filing of the Debtor's petitions was the same as the State Court judgment in Moline Acres. Thus, Option One Mortgage Co.'s claim is not enforceable against the Debtor and against the property of the Debtor and Option One Mortgage Co. is a statutory secured creditor lienholder with a statutorily matured interest, In re Pitts 31 B.R. 90 (Bkrtcy. 1983). Therefore, Option One Mortgage Co. and the Bankruptcy Court by threatening to foreclose on the 2411 and 2417 gardner real property, and actually commencing relief from stay proceedings to permit such foreclosure seeks to attack the validity of the State Court judgment. However, the validity of the claim of a creditor which is based on a state court judgment may be attacked in Bankruptcy Court by an objection to a proof of claim only upon the grounds that there was lack of jurisdiction over the parties or subject matter of the suit or that the judgment was the product of fraud. In re Arker, 6 B.R. 632, 635 (Bkrtcy.E.D.N.Y.1980), citing Heiser v. Woodruff, 327 U.S. 726, 66 S.Ct. 853 90 L.Ed. 970 (1946). In those cases, the debtor's objections to claims based upon state court judgments were denied because there were no allegations that the state court judgments were procured by fraud. It is true that the Bankruptcy Court's equitable powers include the power to set aside fraudulent claims, including a fraudulent judgment where the issue of fraud has not been previously adjudicated, but there is no principle of law or equity which sanctions the rejection by a federal court of the principle of res judicata. Heiser at 732, 733, 66 S.Ct. at 855, 856. Where an issue

has been previously litigated in the state court, the principle of res judicata precludes the parties from relitigating that matter in the Bankruptcy Court. The Bankruptcy Court may not reexamine those issues already determined by the state court in rendering its judgment. Id. At 736, 66 S.Ct. at 857. In passing on the validity of a creditor's claim, the Bankruptcy Court may not disregard the principle of res judicata. Id. 327 U.S. at 737, 66 S.Ct. at 858; In the instant case, Option One Mortgage Co., the trustee or the Bankruptcy Court has made no allegation that the state court judgment was fraudulently obtained or that there were any jurisdictional defects. Therefore, Option One Mortgage Co. or the Bankruptcy Court cannot collaterally attack the judgment of the State Court of the City of Moline Acres in the Bankruptcy Court. To allow such a collateral attack would be violative of the principle of res judicata, and the important public policy that there must be some finality to litigation. When a contested issue is decided against a party, that party may not revive that litigation in another court. Baldwin v. Iowa State Traveling Men's Association, 283 U.S. 522, 51 S.Ct. 517, 75 L.Ed. 1244 (1931).

Because a writing claimed to be libelous must be interpreted from its four corners and must be given its ordinary meaning in the plain and popular sense. *Swafford v. Miller* 711 S.W.2d 211, 213 (Mo.App.1986) Defendants' admissions that they diagnosed me with schizophrenia (paranoid type), eventually took me to the city and/or county jail, booked me and caused me to lose two jobs and my home also serves to rebut their contention that there was no proof of false publication (and no proof of misdiagnosis of that I am mentally ill) by defendants. As a general rule if there is conflicting evidence as to publication, or the evidence is susceptible to different inferences, the question of the sufficiency of publication is to be resolved by the jury, *see* 50 Am.Jur.2d, Libel and Slander, § 151. That any potential witness could, as a defense witness or on cross-examination, have corroborated my testimony is a distinct possibility. The foreclosure of this possibility of a potential witness testifying presents "potential substantial prejudice" to my ability to defend myself or exculpate my claims. See Dickey v. Florida, 398 U.S. 30, 54, 90 S.Ct. 1564, 26 L.Ed. 2d 26 (1970).

If there has been no conspiracy coerced against me (as proclaimed by Judge Ross). I have identified specific statutory, constitutional provision and regulations that was violated, and therefore Judge Maura B. McShane and Judge John A. Ross did err in dismissing my claims. And the U. S. Court of Appeals also erred by affirming said ruling. Because I alternatively argue that my employment status and real property is factually and legally

indistinguishable from that of my mental or physical impairments. The record support this argument, study the following documents in point determinations of that I am not and never have suffered from the schizophrenia and/or the paranoia disorders.

If you experience any thoughts of harming yourself, contact the National Suicide Prevention Lifeline at 1-800-273-TALK(8255).

Hospital Problems

Schizophrenia spectrum disorder with psychotic disorder type not yet determined (CMS/HCC)
Hyperlipidemia
Hypertension

Care Providers

Provider	Service	Role	Specialty
Michael R. Jarvis, MD	—	Attending Provider	Psychiatry

Allergies

Date Reviewed: **5/29/2020**

No active allergies

What's next (max twelve appts shown)

JUL 2 HOSPITAL OUTPATIENT VISIT
Thursday Jul 2, 2020 10:15 AM
Please arrive 30 minutes before your scheduled appointment.If you are more than 20 minutes late for your appointment, you may be asked to reschedule. If you need to cancel or change your appointment, please call 314-362-5065 24 hours in advance or as soon as possible.

Barnes-Jewish Hospital
4901 Forest Park Avenue
Center for Outpatient Health
SAINT LOUIS MO 63108-1495
314-362-5065

Where Judge McShane's and Judge Ross' orders made not in my favor are void because I am sane. Because Judge McShane's and Judge Ross' dismissals of my cases would be inconsistent with the determinations made in the present filings and in my resisting arrest case (No. 02C0-4056). Because the case at bar pivots on whether in fact there is and/or there has been a conspiracy coerced against me during the last thirty-eight years; as contested in my submissions to the court system. And defendants have produced no evidence proving that there is no such conspiracy. Facts have been admitted in evidence by defendants probative in proving all defendants' guilt under the judicial estoppel, issue preclusion, equitable and collateral estoppel doctrines; that protects the integrity of the judicial process by preventing a party from taking a position inconsistent with one successfully and unequivocally asserted by the same party in a prior proceeding. The government has, however, while not confessing error, taken a position tantamount to a confession of error. The conclusion of this court or jury as to any of the defendants' connection with the conspiracy is greatly fortified by evidence in the record and the inconsistent statements in the nature of a confession (by their ordering of sua sponte competency exam; then coerce me into signing a confession [that confesses that I resisted arrest in case No. 02C0-4056 and competent to singe said confession)]. Which was conspiratorially made by the defendant employees of the United States, the State of Missouri their official agents and/or their agencies; in violation of Fed.R.Evid. 804(b)(3) which provides: (3) Statement against interest. A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject him to civil or criminal liability, or to render invalid a claim by him against another, that a reasonable man in his position would not have made the statement unless he believed it to be true. Plaintiff cite Hyatt Corp. v. Occidental Fire & Cas. Co. of N.C., 801 S.W.2d 381, 390-91 (Mo.App. W.D.1990), for the proposition that an unequivocal admission by a party's counsel judicially estops that party from taking a contrary position.

When extracted from its natural context, defendants' language may indeed appear ambiguous. " 'Exculpatory statements, (made by doctors of the Social Security Administration, Christian Hospital Northwest, the Metropolitan St. Louis Psychiatric Center and Dr. Seth Tilzer M.D.) stating that Plaintiff is mentally ill proven false, evidence a consciousness of guilt on the part of all defendants[.]' " State v. Clay, 975 S.W.2d 121, 140 (Mo. Banc 1998), cert. Denied, 525 U.S. 1085, 119 S.Ct. 834, 142 L.Ed.2d 690 (1999) (citation omitted).

STATEMENT OF JURISDICTION

Therefore, defendants are charged with conspiracy and violation of the interstate domestic violence statute, 18 U.S.C. 2261(a)(2). However, under a more moderate application of United States v Alfonso D. Lopez Jr. 514 U.S. 549 (1995), the economic character of the activity is established by the fact that the Petitioner and the pertinent City and/or County condemner of his homes defendants were each engaged in commercial land development. Further, the electronic connection between frequencies subject to defendants' jurisdiction and their adjacent lands establish the necessary connection to interstate commerce.

CONSTITUTIONAL PROVISIONS INVOLVED

The United States Constitution Amendment Five, the Fifth Amendment prohibits extraction of information by "exertion of any improper influence."

STATEMENT OF THE CASE

A. Introduction:

Applying the plain language of 11 U.S.C. 327(a), Article III, section 2, of the Constitution, Rule 23(a) and related provisions of the Bankruptcy Code, it must be held that the bankruptcy court, the circuit court, the Missouri Court of Appeals, the Supreme Court of Missouri and the United State Court of Appeals erred, and their decisions must be reversed. Because the aforesaid attorneys and judges refuse to recuse their-selves as witnesses in these proceedings [28 U.S.C. 144 and 455, DR 5-102 Withdrawal as Counsel When the lawyer Becomes a Witness, lawyer in his firm may testify in circumstances enumerated in DR 5-101(B)(1) through (4)]. In proceedings such as these where the court officials have not disclosed that they have been receiving information about Ronald Douglas' personal and private affairs through a sense other than the five major senses (vision, hearing, smell, taste, and touch) court officials must recuse their selves.

After the lapse of 90 days, Judge John A. Ross ordered the dismissal of this action for I would assume failure to comply with § 538.225, RSMo. Although I filed an Amended Medical Malpractice Complaint on November 15, 2019; Judge Ross dismissed my complaint on November 20, 2019. I filed an appeal to the United States Court of Appeals for the Eighth Circuit on December 20, 2019. I am convinced expert medical testimony is not necessary to make a submissible case of negligence. Because by allowing the district court to deny me my practical protections of section 538.225 -- notice of a pending motion to dismiss and an

opportunity to amend the complaint before the motion is ruled on -- which are not provided when complaints are dismissed *sua sponte* under § 1915(d). This case should be remanded to the district court to retrieve said protection. That the judges, court officials of these Ronald Douglas' cases abused their discretion and along with others violated state, federal and constitutional law; by refusing to produce the exculpatory evidence that proves that I am not suffering from the schizophrenia and/or the paranoia psychological disorders. That I am not a criminal. That I did not defraud my creditors. And I am not in violation of the law. That there is and has been a conspiracy coerced against me contrary to defendants' asserted perjured testimonial confessions. Under Canon 3 of the Code of Judicial Conduct, Judge Thea A. Sherry, Judge Barry S Schermer, Judge Barbara A. Crancer, Judge Maura B. McShane, Judge Mary K. Hoff, Judge Philip M. Hess and Judge John A. Ross had a duty to disclose their association with the conspiracy coerced against me before sitting in any case in which they were defendants. However, said judges violated this Code with respect to the Petitioner's lawsuits against defendants; when defendants sat and failed to make any disclosure. More importantly, said judges during the time they ruled and entered judgment in favor of defendants was specifically disqualified pursuant to U.S.C. 28 section 455 (b)(5)(i).

B. Prior Proceedings: **That most of the defendant municipal courts and other defendants conspired and abused their discretion by violating the discovery requirements of Rule 25.03; and my constitutional rights to present a defense and to a fair trial by with vindictive, sua sponte dismissals dismissing the case. The right to present a defense is a fundamental element of due process. State v. Allen, 800 S.W.2d 82, 86 (Mo.App.1990). Assuming the State violated Rule 25.03 by failing to produce the exculpatory. Plaintiff is entitled to a new trial for the court's failure to produce the exculpatory. But the problem remains; I never had a trial. Because the circuit court erred in sua sponte dismissing my petition. The circuit court had jurisdiction to review my petition under Section 536.150 as a non-contested case; because I had no statutory or constitutional evidentiary hearing of my case before the defendant Commissions. I alternatively argue that the circuit court and the United States District Court Eastern District of Missouri erred in dismissing my petition (if dismissal is actually what occurred). Because the circuit court had jurisdiction to review my petition under Section 536.150 as a contested case but refused; thus, the defendant Commissions'**

decisions are void. In that I have not been afforded a contested case hearing. Determining whether an administrative proceeding is a contested or non-contested case is not left to the discretion of the administrative body, but is, rather, determined as a matter of law. State ex rel. School Dist. of Kansas City v. Williamson, 141 S.W.3d 418, 426 (Mo.App.W.D.2004). Where said judges knew that he or she lacked jurisdiction [due to defendants' conspiratorial violations of the Social Security Act, section 632.350 Comprehensive Psychiatric Services Conduct of hearing—jury question—result, Rule 25.03 rights to present a defense and to a fair trial. State v. Allen, 800 S.W.2d 82, 86 (Mo.App.1990), .020 examination § 552.020.14, RSMo, section .030 type examination, § 552.030.6, other applicable law and 28 U.S. Code § 144 - Bias or prejudice of judge] are acts in the face of said clearly valid statutes expressly depriving him or her of jurisdiction, judicial immunity is lost. Rankin v. Howard, (1980) 633 F.2d 844, cert den. Zeller v. Rankin, 101 S.Ct. 2020, 451 U.S. 939, 68 L.Ed 2d 326. Where there is no jurisdiction, there can be no discretion, for discretion is incident to jurisdiction. Piper v. Pearson, 2 Gray 120 cited in Bradley v. Fisher, 13 Wall. 335, 20 L.Ed. 646 (1872). The parties do not disagree that the right to trial by jury is preserved under this article to a proceeding for damages for medical malpractice. And therefore, I ask for a trial for procedural errors. Expert medical testimony that defendants failed to meet that standard was not indispensable. Plaintiff could not count alone on the mere fact that an injury was apparent during the last thirty-eight-years course of defendants' unlawful conspiratorial conduct. There was and there is an unexpected and bad result because defendants had not and are not exercising the requisite degree of care. Fisher v. Wilkinson, Mo. Sup., 382 S.W.2d 627, 630. A presumption of negligence is indulged in because of an adverse result and defendants' conspiratorial lack of exercise of the requisite degree of care. Hart v. Steele, supra, 416 S.W.2d, 1. c. 931 [3]. The burden was upon plaintiff to prove negligence of the defendants in failing to exercise the requisite degree of care and skill and that the negligent act or acts caused the injury and he has. Fisher v. Wilkinson, supra; Williams v. Chamberlain, supra; Pedigo v. Roseberry, 340 Mo. 724, 102 S.W.2d 600, study the following copy of first page of my amended medical malpractice complaint.

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI EASTERN DIVISION

RONALD DOUGLAS,

Plaintiff,

vs.

No. 4:19CV02354JAR

JOSH HAWLEY, et al, RICK STEVENS, PRESIDENT OF CHRISTIAN HOSPITAL, DR. SETH TILZER, JENNIFER TIDBALL DIRECTOR. OF THE DEPARTMENT OF SOCIAL SERVICES, MARK STRINGER, DIRECTOR OF THE DEPARTMENT OF MENTAL HEALTH IN THE STATE OF MISSOURI, ANDREW SAUL ACTING COMMISSIONER OF SOCIAL SECURITY, A REPRESENTATIVE OF THE MISSOURI BOARD OF REGISTRATION FOR THE HEALING ARTS

Defendants,

AMENDED MEDICAL MALPRACTICE COMPLAINT & PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT UNDER Fed.R.Civ.P.56(e), Rule 74.04(c)(6) AND TO REVERS THE DISMISSALS AND ORDERS OF CAUSE (No. 05CC-1381), CAUSE (No. ED86694), BANKRUPTCY CASE (No. 03-43475), ADVERSARY PROCEEDING (No. 03-4559) MO. STATE RESISTING ARREST CAUSE No. 02C0-4056, PRO SE LAW SUITS #99CC-002227, #02CC-005041, # 13SL-CC00708, APPEAL No. ED99667, APPEAL No. ED105202, THE SUPREME COURT OF MO. CASE # SC96295, THE DEFENDANT MUNICEPLE COURT CASES MADE NOT IN,PETITIONER'S FAVOR FOR FALSE ARRESTS AND FALSE IMPRISONMENT, MALICIOUS USE AND MALICIOUS ABUSE OF PROCESS AGAINST THE POLICE DEFENDANTS UNDER 28 U.S.C § 2680(h) AND REINSTATE THE MARCH 19, 2003 CASE No. 03-43475-399 DUE TO CONSPIRATORIAL CONTEMPT BY PUBLICATION, BROADCAST AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS AS CONTESTED IN THIS HERETOFORE SAID COMPLAINT AND PETITION FOR DECLARATORY AND INJUNCTIVE RELIEF SEEKING DAMAGES AS TO DEFENDANTS' LIABILITY UNDER MISSOURI WRONGFUL DEATH STATUTE § 537.080 RSMo, THE FEDERAL TORT CLAIMS ACT AND MISSOURI SUBSTANTIVE TORT AND MEDICAL MALPRACTICE LAW. 28 U.S.C §§ 1346(b)(1), 2674 AS TO DEFENDANTS' LIABILITY UNDER THE FTCA, MISSOURI SUBSTANTIVE TORT AND MEDICAL MALPRACTICE LAWS APPLIES. 28 U.S.C. §§ 1346(b)(1), 2674, SECTION 287.280.1, SECTION 334.125.2, SUBDIVISIONS (2)(4)(a)(b)(c)(d)(e)(f)(k)(5)(6)(14)(15)(16)&(18) of 334.100. 1.2.

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In Washington v. State of Texas, 388 U.S. 14, 87 S.Ct. 1920, 18 L.Ed.2d 1019 (1967), the Supreme Court held that the right of a defendant in a criminal case to have compulsory process for obtaining witnesses in his favor applies to the states through the 14th Amendment.

"It may well be that other satisfactory witnesses are available, but it is not the Government's prerogative to select which witnesses the defense can or cannot call, and when the Government's delay (coercion or obstruction) produces a result as in this case that amounts to such selection, the Court will consider the defendant to have been prejudiced.

C. Rule 538.225 Proceedings: **Under such circumstances "[S]ilence or nondisclosure of a material fact, when used as an inducement to another, can be an act of fraud[,]" when an individual has a duty to speak. Andes v. Albano, 853 S.W.2d 936, 943 (Mo. Banc 1993). A relation of trust and confidence can create a duty to speak, and so can one party's having knowledge or information that the other party does not have and cannot be expected fairly and reasonably to obtain. The defendant judges and court officers were and are not representing defendants. The heretofore said intrusive official misconduct (fraud, entrapment, murder and attempted murder) conspiratorially made by all defendants and violation of the Title 29, Chap. 534, §534.020 of the Missouri Forcible Entry and Unlawful Detainer statute that coerced me into filing my involuntary petition in the Bankruptcy Court of the Eastern District of Missouri on or about year 2003; a case that was unlawfully dismissed by Judge Barry S Schermer does represent defendants. Although Defendants and the other pertinent legal entities had knowledge of the conspiracy through reception of information through the heretofore said communications. They did not disclose this information to the authorities nor to me. Workers' compensation proceedings are adversarial. See Stegeman v. St. Francis Xavier Parish, 611 S.W.2d 204, 209 (Mo. Banc 1981). The judges and court officers of my cases were not to be my adversary. They were to be impartial. Judges and prosecutors are immune from civil suits for damages only for actions taken within scope of their official duty; thus, judge is NOT immune if his or her actions are deemed nonjudicial, and prosecutor is only immune if he or she was acting within scope of his or her authority. The Supreme Court has instructed, however, that even when a party has superior knowledge: "A party to a lawsuit is not bound to disclose to his adversary facts which tend to defeat or weaken his own right of recovery and he commits no fraud by remaining silent. (quoting Thompson v. Kansas City, Clay County and St. Joseph Railway Company, 224 Mo.App. 415, 27 S.W.2d 58, 60 (1930)). The court held that this rational also applies to third-party**

beneficiary claims Wild v Trans world Airlines INC. Thus, defendants, the judges and court officers of my cases breached their following duties.

REASONS FOR GRANTING THE WRIT

Allegations that said judges, police officers and their prosecuting attorneys of the defendant cities and counties of these cases conspired to deprive me of various constitutional rights; while I was defending myself pro se in criminal action. That the police defendants, said judges and their prosecuting attorneys who decided my cases not in my favor agreed that they would take steps to shut off my access to the legal process, deny me effective assistance of counsel, and deny me subpoenas for defense witnesses, as well as deprive me other rights. State claims by asserting the police defendants, said judges and their prosecutors were acting outside scope of their official duties in entering into the heretofore said agreements; thereby depriving police, judges and prosecutors of immunity. Ashelman v. Pope, 769 F.2d 1360, opinion withdrawn and rehearing granted 778 F.2d 539, on rehearing 793 F.2d 1072. Mainly because in Alderman v. United States, *supra,* the Supreme Court held that the Government must disclose and make available to a defendant who has the proper standing, any conversations he participated in or that occurred on his premises which the Government overheard during the course of any illegal electronic surveillance. The clear purpose of this ruling is to reinforce the long-standing exclusionary rule of the Fourth Amendment which prevents the Government from building its case upon evidence which is obtained by unconstitutional methods. In the instant case, since I am a party to the monitored conversations, I have the requisite standing to object to the evidence and to request disclosure. See *Alderman, supra,* at 176, 89 S. Ct. 961.

In the standard as originally proposed by OSHA, my employer's duty to monitor, keep records, and provide medical examinations arose whenever *any* extremely low frequency [that cause people to suffer (1), depression (2), pain-induced aggression (3), escape (4), avoidance (5), sleep pattern (6), restricted activity and (7), the hearing of voices resulted in the experimental subject being dèpicted as of having a mental illness in disrespect of the established preponderance of the evidence, Sanders v. State, 738 S.W.2d 856, 857 (Mo. Banc 1987)] was present in a workplace "environment" covered by the rule. Because said frequency is omnipresent at quantities that caused people to suffer [(1), depression (2), pain-induced aggression (3), escape (4), avoidance (5), sleep pattern (6), restricted activity and (7), the

hearing of voices resulting in the experimental subject being depicted as of having a mental illness in disrespect of the established preponderance of the evidence, NIOSH and the President's Council on Wage and Price Stability recommend the use of an "action level" to trigger monitoring and medical examination requirements. Tr. 1030-1032; App. 121-133. Defendants and the general public conspired and received the signals from satellites (and heard voices communicating my private affairs) have been successful during the last thirty-eight years in brushing off its kind of reality by calling it and me crazy and insane; but they cannot ignore the elements of criminal conspiracy to extort, defraud, entrap and murder me in this case of unreasonable intrusion upon my seclusion.

CONCLUSIONS AND PRAYER FOR RELIEF

This complaint filed *in forma pauperis* was and is not automatically frivolous within the meaning of 28 U.S.C. § 1915(e)(2)(B) because I failed to file an affidavit by a health care provider certifying merit of case. The two standards were devised to serve distinctive goals and have separate functions. Under section 538.225's health care affidavit requirement is to protect the public and litigants from groundless malpractice claims and secure the continued integrity of the health care system, whereas, under 28 U.S.C. § 1915(e)(2)(B)'s frivolousness standard -- which is intended to discourage baseless lawsuits -- dismissal is proper only if the legal theory or the factual contentions lack an arguable basis. The considerable common ground between the two standards does not mean that one invariably encompasses the other; since, where a medical complaint raises an arguable question of law an affidavit shall be filed no later than ninety days after the filing of the petition unless the court, for good cause shown, orders that such time be extended for a period of time not to exceed an additional ninety days. Where a complaint raises an arguable question of law if the plaintiff or his attorney fails to file such affidavit the court shall, upon motion of any party, dismiss the action against such moving party without prejudice. But on the basis of frivolousness such action shall not. This conclusion flows from 28 U.S.C. § 1915(e)(2)(B)'s role of replicating the function of screening out inarguable claims from arguably meritorious ones played out in the realm of paid cases by financial considerations. Moreover, it accords with the understanding articulated in other areas of law that not all unsuccessful claims are frivolous. It is also consonant with Congress' goal in enacting the *in forma pauperis* statute of assuring equality of consideration for all litigants. To conflate these standards would deny indigent plaintiffs the practical protections of section

538.225 -- notice of a pending motion to dismiss and an opportunity to amend the complaint before the motion is ruled on -- which are not provided when complaints are dismissed *sua sponte* under 28 U.S.C. § 1915(e)(2)(B). Pp. 490 U. S. 324-331, 837 F.2d 304. My amended malpractice complaint was ignored by the court denning me the protections of section 538.225 -- notice of a pending motion to dismiss and an opportunity to amend the complaint before the motion is ruled on -- which are not provided when complaints are dismissed *sua sponte* under 28 U.S.C. § 1915(e)(2)(B), Neitzk v. Williams, 490 U.S. 319 (1989). If I am required to submit an affidavit by a health care provider certifying merit of case and receive the protections of section 538.225 -- notice of a pending motion to dismiss and an opportunity to amend the complaint before the motion is ruled on -- which are not provided when complaints are dismissed *sua sponte* under 28 U.S.C. § 1915(e)(2)(B). Then district court clearly erred in dismissing my case under 28 U.S.C. § 1915(e)(2)(B) for me not receiving said protections that I should have receive in the district court. This case must be remanded to the district court. Because under said circumstances Judge John A. Ross and Judge Maura B. McShane conspired with the other defendants and/or aided and abetted them in their fraudulent concealment of violations of the heretofore said laws. I should receive proper medical care, dental care and Workman's Comp because of said orders made of a higher court are in violation of subsection 42 U.S.C. § 12112 (d)(1), 12112(b) and 42 U.S.C. § 12112(b)(5)(A) also through their violations of title III and/or 42 U.S.C. § 12101(b)(1), 42 U.S.C. 1981, 1982, 1983, 1985 and 1986.

Respectfully submitted,

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