

NO: 20-692

Supreme Court, U.S.
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In The
SUPREME COURT OF THE UNITED STATES

ROSEMARY WEBSTER; TIMOTHY WARE, JR.; DENNIS JEFFERSON

Petitioner(s)

v.

FRESENIUS MEDICAL CARE HOLDINGS, INC.;
a/k/a Fresenius Medical Care North America

Respondent(s)

**On Appeal from the United States District Court
for the Middle District of Tennessee**

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. The Due Process clause of the United States Constitution entitles a person to an impartial and disinterested tribunal in civil cases. This neutrality requirement in adjudicative proceedings safeguards two central concerns. First, it prevents an unjustified or mistaken deprivation of property. Second, it promotes participation and dialogue by litigants in the decision-making process. Did the Sixth Circuit Court of Appeals affirm a judgment that violated the Petitioners fundamental rights by supporting an opinion that (I) repeatedly transgresses the applicable standard of review, and (II) prejudicially omit the Petitioners allegations and arguments?
2. Whether the unpublished appellate opinion used case law to redirect the interest of justice and render a decision that suggest bias, prejudice or favoritism should be allowed to stand unchanged?

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OPINIONS BELOW

The unpublished opinion of the United States Court of Appeals for the Sixth Circuit is attached hereto as appendix A-1. The order of the district court is unpublished and attached hereto as appendix A-2. The report and recommendation of the magistrate judge is unpublished and attached hereto as appendix A-3

JURISDICTION

The judgment of the Sixth Circuit court of appeals was entered on July 28, 2020. This jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution, Fifth Amendment : No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

42 U.S.C. § 2000e-2(a)(1) provides in pertinent part: "It shall be an unlawful employment practice for an employer . . . to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin."

STATEMENT OF THE CASE

Petitioners alleged that they were denied equal opportunity to apply for permanent internal fulltime and or management job promotions within the Production Support Services Division within the defendant's User Security Administration department. This department is one of many Information Technology Departments the defendant has within its entity and the allegation stated that the defendant repeatedly blocked/removed and or disabled job links before the established job posting policy of 5 days, promoted similarly situated and or less qualified Caucasian coworkers and such companywide behavior dated on or before January of 2008. The defendants foreknew their behavior would discriminate against the plaintiffs by repeatedly violating their own established policies and procedures which promoted an atmosphere of discrimination. Petitioners filed its complaint against the defendant Fresenius USA Manufacturing, Inc., pursuant to the defendants' business filing with the State of Tennessee and amended this filing due to defendant's response to compliant that stated there was no connection between the named entities of Fresenius USA Manufacturing, Inc., National Medical Care, Inc., Fresenius Medical Care North America, and Fresenius Medical Care Holdings, Inc. Petitioners research found the active assumed name for Fresenius USA Manufacturing, Inc. is A/K/A Fresenius Medical Care North America (FMCNA) which formed after the 1996 merger of National Medical Care, Inc., and Fresenius USA, Inc., which named Fresenius Medical Care Holdings, Inc., as the parent entity which is D/B/A Fresenius Medical Care North America.

The Defendant did not initially enter a Corporate disclosure statement per Federal Rule of Civil Procedure Rule 7.1 Disclosure Statement (a)(1)(2)(b)(1)(2). The defendant answered the Petitioners complaint as Fresenius Manufacturing USA Inc. pleading lack of jurisdiction as the Plaintiffs were not employed by Fresenius Manufacturing USA Inc..

This case was originally assigned to the Hon. District Judge Aleta A. Trauger, which Hon. Trauger allowed Petitioners previous counsel of record to

withdraw stating that Petitioners did not want to follow their legal direction and allowed the defendant to proceed without entering a Corporate Disclosure Statement.

The Hon. Trauger would then assign the pretrial proceedings to the Magistrate Court of Hon. Judge Joe Brown.

Plaintiffs submitted a motion to compel a Corporate Disclosure statement from the Defendant.

The Hon Judge Joe Brown would moot the Plaintiffs Motion for Corporate Disclosure, and the ICMO was held on December 7, 2017; Final Scheduling Order entered on December 13th, 2017 that included a set discovery deadline of August 31, 2018.

The Plaintiffs filed a motion to amend their 3rd complaint on March 6, 2018, removing named defendants National Medical Care, Inc., d/b/a Fresenius Medical Care North America; and Fresenius Manufacturing USA Inc., d/b/a Fresenius Medical Care North America and plaintiff Connie Hannah.

Petitioners filed their motion to recuse Hon Judge Brown on November 16, 2018 and district Court denied Petitioners motion to recuse. Petitioners also sought to review Hon Judge Brown order denying Motion for leave to take deposition of Defendant out of time- which was also denied. Petitioner filed their first appeal and Appellant court dismissed review due to final order not being filed in case.

Magistrate Court enters Report and Recommendation in favor of Summary Judgment which petitioner allege violation of due process during his cause of action. District Court enters order dismissing case with prejudice and Petitioner filed a timely appeal. The United States Court of Appeals for the Sixth Circuit affirms through an unpublished decision in favor of the district court on July 28, 2020 attached hereto as appendix A-1.

This petition is filed due to the lower courts failure to adhere to the rule of justice and bias treatment during petitioner's cause of action.

REASONS FOR GRANTING THE WRIT

The Appellate Court reviewed the district court's order to grant summary judgment de novo. *Evans v. Techs. Applications & Serv. Co.*, 80 F.3d 954, 958 (4th Cir. 1996). In doing so, the appellate Court is "required to view the facts and all justifiable inferences arising therefrom in the light most favorable to the nonmoving party," *Libertarian Party of Va. v. Judd*, 718 F.3d 308, 312 (4th Cir. 2013), and "must not weigh evidence or make credibility determinations." *Foster v. Univ. of Md.-E. Shore*, 787 F.3d 243, 248 (4th Cir. 2015). The appellate Court could reverse the granting of summary judgment if, when viewed in this light, procedural due process was not fairly imputed and "the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986).

The appellate court erred in its decision when dismissing the petitioner's allegations as conclusory, determining that the district court did not engage in ex-parte – collusion communications, and did not deliberately or materially modify court transcripts and recordings. The decision stereotyped the petitioners cited allegations and literally dismissed their claims of due process with case law stating that it is binding." *Liteky v. United States*, 510 U.S. 540, 555 (1994)

It also states that pro se parties must still comply with briefing standards set forth in the Federal Rule of Appellate Procedure 28. "Bouyer v. Simon, 22 F. App xX611, 612 (6th Cir.2001) (citing *McNeil v. United States*, 508 U.S. 106, 113 (1993)); and that since the petitioners did not address the district court reasons for granting summary judgement in favor of the defendant, the petitioners forfeit any possible challenge to the district court decision." *Geboy v. Brigano*, 489 F.3d 752, 767 (6th Cir. 2007)." The appellate court failed to properly vet the allegations in an exhaustive manner during their De novo review.

The petitioners challenge this decision as unconstitutional and a bias peer to peer review rendered to protect a colleague, a racial class member or both. Case law

does not reconcile how civil a litigant, moreover pro se litigants, can discover, and establish facts without being granted an equal, fair and impartial hearing by the court. An impartial De novo review would have found issues with how the district court executed and infringed upon the petitioner's procedural due process rights.

I. The courts cannot hinder the truth and remain impartial

The court continues to violate each litigant's due process right(s) each time the court assist the defendant(s) in their pleadings to hide and or mislead their true corporate identity structure by repeatedly ignoring their disingenuous pleadings concerning the use of their active assume name. The active assume name is a legal connection to their corporate identity and can also serve as a direct liability to any cause of action filed against it. The need for a proper Corporate Disclosure Statement not only serves governance for recusal, but it will also allow the courts to verify diversity at the outset of litigation and ensure any previously hidden fact or series of facts are made known concerning the defendants true corporate identity.

The district court erred in its administration of procedural due process when the court allowed the defendant to omit compliance to the Federal Rules of Civil Procedure; Rule 7.1.(a),(1);(b):(1)(2), drawn from Rule 26.1 of the Federal Rules of Appellate Procedure. This act allows past, present, and future defendants to enter an official document(s) or act(s) into record as a plea. This procedural avoidance makes the court accountable facially for any disingenuous pleadings concerning the factual truth of the defendant's corporate identity. It will also indicate that the court is bias toward the plaintiff(s) and in collusion with the defendant. This cause of action is a great example because we find that the plea originally entered by the defendant was not an accurate disclosure of the defendant's identity structure and found to be a disingenuous pleading through ferret research.¹

¹ The "clear and convincing" standard is an intermediate standard of proof between a "preponderance of the evidence" and "beyond a reasonable doubt." *Smith v. Department of HRS*, 522

The defendants entered a corporate disclosure statement stating that there was no legal connection between Fresenius Manufacturing USA, National Medical Care, Inc., and Fresenius Medical Care Holdings Inc., and that National Medical Care, Inc., is the entity that owns the active assume name D/B/A Fresenius Medical Care North America. The problem here is that the defendant never promptly tried to correct any misstatements in their pleadings and the court tolerated the civil injustice with ample precedential support by mooted the Petitioner's Motion for Corporate Disclosure Statement.² Furthermore, The defendants corporate disclosure statement on file for Fresenius Medical Care Holdings Inc., the parent entity, does not disclose that they are D/B/A Fresenius Medical Care North America (Appen – 4)

This presents a constitutional problem on two fronts for the courts. First, when the courts allow the omission of the Federal Rules of Civil Procedure; Rule 7.1.(a),(1);(b):(1)(2), the courts automatically present a bias to every civil plaintiff and this bias conflicts its role in remaining impartial concerning the interest of justice. This omission, as seen in this cause of action, is a direct indicator of judicial bias and restricts the interest of justice to favor the defendant's pretextual statement as a statement of fact throughout the cause of action. The defendant could then argue no liability or legal connection upon the face of the corporate disclosure statement. When you consider the fact that the court mooted the

So. 2d 956 (Fla. 1st DCA 1988). For evidence to be "clear and convincing" "[it] must be of such weight that it produces in the mind of the trier of a fact a firm belief or conviction, without hesitancy, as to the truth of the allegations sought to be established." *Slomowitz v. Walker*, 429 So. 2d 797, 800 (Fla. 4th DCA 1983). *See also Small Business Admin. v. Echevarria*, 864 F. Supp. 1254 (S.D. Fla. 1994).

² *Hammerschmidt v. United States*, 265 U.S. 182 (1924) To conspire to defraud the United States means primarily to cheat the government out of property or money, but it also means to interfere with or obstruct one of its lawful governmental functions by deceit, craft or trickery, or at least by means that are dishonest. It is not necessary that the government shall be subjected to property or pecuniary loss by the fraud, but only that its legitimate official action and purpose shall be defeated by misrepresentation, chicane, or the overreaching of those charged with carrying out the governmental intention. It is true that words 'to defraud' as used in some statutes have been given a wide meaning, wider than their ordinary scope. They usually signify the deprivation of something of value by trick, deceit, chicane, or overreaching. They do not extend to theft by violence. They refer rather to wronging one in his property rights by dishonest methods or schemes.

attempt to ascertain the facts of the defendants pleadings and submission of the inconsistent Corporate Disclosure Statements, such constraints will make it impossible for the court to properly administer due process for any plaintiff(s), yet alone a Pro se plaintiff. As a result, the court directly prevented the petitioners from presenting direct evidence refuting the official document and or act pleaded by the defendant. The court cannot remain impartial throughout the cause of action once it has used its authority to obstruct the revelation of truth to benefit a particular party.

The second constitutional issue this behavior presents is that this behavior will automatically burden every plaintiff(s) in seeking justice by making the plaintiff(s) pursue an unnecessary fact in discovery. The defendant has a responsibility to disclose their corporate structure by listing the parent, every assumed name of operation and affiliates structured in its entity to the court. This will ensure that the administration of justice remains impartial. This cause of actions reveals that the district court knowingly permitted the submission of evidence that the court foreknew to be incomplete concerning the interest of justice and such actions should have been a clear breach of professional ethics, and or law. The court should have had the defendant give a show cause as to why its pleas have been inconsistent to the previous corporate disclosure statements offered as evidence in the petitioners exhibits which was attached to their Motion for Corporate Disclosure Statement.

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The petitioner presented cited evidence directly from the defendants' previous cases of record. The repeated fabrications in pleadings directly affected the heart of the defendants claims and should have undermined the integrity of their case. The

³ The court holds the sole responsibility *and* obligation to deter such conduct under such circumstances. The magistrate court should have deemed this action to be more harmful to the administration of justice or more hurtful to the public appraisal of the legal system because it resulted in an official document or act becoming a false pleading in the judicial system by a knowledgeable, licensed attorney.

defendant, through its legal counsel, pleaded that a certain legal connection did not exist. This would make the previous pleadings and the mooted of the motion to be a calculated attempt to conceal relevant information from the plaintiffs.

The complicit bias of the court is directly revealed in the courts demand that the plaintiffs bring back any evidence of their employment connection to the defendant's parent entity. After the production of evidence, the court would then give the plaintiffs the right to file a summons against the parent entity for suit.⁴

The defendants misconduct obstructed the discovery process, included fraud on the court, and perjury, which was designed to impede the plaintiff's ability to conduct discovery which was vital to their cause of action. The defendant held in total disregard the integrity of the judicial system and the gravity of defendant's behavior should have been addressed immediately by the magistrate court.

In *United States v. Lundwall*, 1 F. Supp. 2d 249 (S.D.N.Y. 1998), for example, "the government indicted two former Texaco employees who allegedly withheld and later destroyed corporate documents sought by the plaintiff in a race discrimination action against the company, and charged them with violating 18 U.S.C. §1503, which makes it a federal offense to corruptly obstruct or impede the due administration of justice, and with conspiracy to obstruct justice in violation of 18 U.S.C. §371. The defendants moved to dismiss the indictment, claiming, in part, that §1503 is not available to punish persons for civil discovery violations. Instead, the defendants argued that the sanctions provided for in Fed. R. Civ. P. 37 were more than adequate to punish them for their alleged discovery abuses and provided ample remedies to the injured plaintiff. The Southern District of New York disagreed. The court held that, even though there is a paucity of authority on the issue, §1503 plainly encompassed the defendants' alleged misconduct (i.e., the

⁴ A questionable order and notable conservation omitted from court transcripts

deliberate concealment and destruction of relevant documents), because it was certain to impede or, at least, attempt to impede justice in the underlying civil action. The court also rejected the defendants' argument regarding the adequacy of Rule 37 sanctions, noting that the indictments did not involve misconduct by *a party* to the civil action, but rather by individuals who acted independent of their employer and its counsel. In any event, the court held that "a court [is free] to impose civil and criminal sanctions in connection with the same contumacious behavior."

The lower courts have no plausible deniability because this is the exact issue that was raised with particularity of the circumstances constituting fraud, mistake, malice, or knowledgeable intent in the petitioner response to the district and Sixth Circuit concerning reasons why not to grant summary judgment. The inconsistency of allowing defendants to enter incomplete and contradicting corporate disclosure statements and pleadings is a direct bias policy, practice and or procedure conducted by the federal courts that solely favors the defendant and their cause of action.

The courts cannot continue to allow a civil corporate defendant the right to plea and or submit an inconsistent corporate disclosure statements if the plea is knowingly not in good faith and there has not been a promptly filed supplemental statement concerning any changes that will explain the disparity in the cited corporate disclosure statement(s) submitted in the court records. The continued act is an action that is prejudicial to plaintiffs and specially to pro se plaintiffs of color, as it allows the defendant to impede the interest of justice under the guise of the court.

The defendant proclaimed that the active assumed named of their identity belonged the entity of National Medical Care, Inc., and not the parent entity named Fresenius Medical Care Holdings, Inc.. This should have been a legal question allowed to be judicated solely by the trial judge and not be a hindrance in the

administration of due process.⁵ If there was a question concerning the defendants true parent identity using the active assume name by the court, the court should have allowed the trial judge to judge this decision. The magistrate court made an early determination on the case merits by blocking procedural evidence from being presented which directly infringed upon the petitioner(s) right to due process.

The court have the inherent authority to reconsider decisions until the final judgment and the inherent authority to impose sanctions. (Link v. Wabash R, Co., 370 U.S. 626, 630-631 (1962) A proper De Novo review would have disclosed an undeniable special interest or bias towards the petitioners by the District court when the judge(s) expressed an actual personal bias or prejudice about the parties or counsel by not seeking the truth concerning the defendant's corporate identity.

If the Petitioners hold the burden of proof, there can be no reconciliation as to how "a fictional person with an ordinary degree of reason, prudence, care, foresight, or intelligence whose conduct, conclusion, or expectation in relation to a particular circumstance or fact", would not determine the forgoing actions as the existence of negligence. (Merriam-Webster, 1828)

As a general rule, a litigant is deemed to have perpetrated a fraud on the court when "it can be demonstrated, clearly and convincingly, that a party has "sentiently set in motion some unconscionable scheme calculated to interfere with the judicial system's ability impartially to adjudicate a matter by improperly influencing the [trier of fact] or unfairly hampering the presentation of the opposing party's claim or defense." Cox, 706 So. 2d at 46 (quoting *Aoude*, 892 F. 2d at 1118)

II. The lower courts used case law to deprive Pro Se litigants of their Constitutional Rights

⁵ The defendant also claimed that each entity had a separate registered agent of service which was also a pretext claim seeing that there was a legal connection between of all three named defendants in the second amended complaint.

The district court did not ensure the petitioners right of a fair, impartial and independent hearing, nor did it present the same in the De Novo review. The appellate court decision erred in the fact that it did not establish that the magistrate court's decision(s) were not an expression of an actual personal bias or prejudice about the parties. (Berger v. United States, 255 U.S. 22, 28, 36 (1921).) The order stated that "judicial rulings alone almost never constitute a valid basis for a bias or partiality motion." Liteky v. United States, 510 U.S. 540, 555 (1994) Affirming that little concern was given to the petitioners claim of judicial bias. The appellate court erred when it did not give the petitioners alleged accusations more preeminent consideration because the allegations specially stated that the district court not only denied his due process rights through bias, ex parte communications and or collusion, but also included deliberately or materially modifying court transcripts and recordings, which would correlate to expanding the appellate court files for review.

The dilemma presented to this court is how precedent has nullified a civil litigant inalienable right. This can only be possible when a judicator does not provide a litigant equal protection under the law and merely try to persuade the merits of the case based on case law. No case law is constitutionally competent if it allows any judicator the right to redirect the interest of justice and evade a citizen's inalienable right that are guaranteed by the U.S. Constitution. This is very evident in this cause of action when you look at how the "must standard" disregarded petitioners constitutional challenges. Bias will be present when the judicator solely relies upon case law and does not adequately address the misbehaving conduct of counsel or the bias behavior of the district court within its ruling(s) but solely focus on one party. This action makes the law(s) or rule(s) on its substance unreasonable and irrational violating due process.

It can be argued that if the petitioner's property rights/interests is protected by what is expressly stated in the employment contract. "Bd. of Regents of State Colls.

v. Roth, 408 U.S. 564, 577 (1972)“, their claim of discrimination concerning their property interest is not solely vested in whether a person is qualified, nor whether a *prima facie* case is mad or not. The sole interest of the Federal Government is whether the defendant employment policies and procedures abide by the laws of the land and US Constitution. The government takes no interest in the hiring practice of a company unless their decisions were made based on certain specified characteristics: race, color, national origin, sex, and religion. Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981 are federal laws that protect employees against employment decisions made on the basis of stereotypes or assumptions related to any protected characteristics.

A civil litigant, who holds a constitutional employment contract with an employer, should be able to seek a claim of discrimination to protect the totality of their property interest without regards to qualification. A true property holder has an vested interest in the company operational procedures including the decision to hire, promote, discharge, investments and how each decision was made in accordance to the law. The vested property interest directly includes protecting their sustenance, an environment providing equal opportunity, workplace free of hostility, and their retirement investments.

A litigant should not have to meet qualifications to challenge the constitutionality of an employment decision because the constitution and law provides that an employer cannot make their decision based on certain specified characteristics nor discriminate with regard to any term, condition, or privilege of employment. None of which states an educational or job experience requirement but seeks to determine if the decision made is based on stereotypes or assumptions related to any protected characteristic.

Nevertheless, a law or rule that is constitutional competent will help bring prudent judgment by bringing reason to the circumstances with expedient rationalization. It should not be so pernicious that fairness must be questioned. The lower courts dismissed the petitioners claim of judicial bias through case law and Federal rules by stating that, “pro se parties must still brief the issues advanced and reasonably comply with the [briefing] standards “ set forth in Federal Rule of Appellate Procedure 28. *Bouyer v. Simon*, 22 F. App x 611, 612(6th Cir. 2001) (citing *McNeil v. United States* , 508 U.S. 106, 113 (1193)). The order also stated that; “Moreover, the plaintiffs are not entitled to relief on their judicial bias claim because “judicial rulings alone almost never constitute a valid basis for a bias or partiality motion.”” *Liteky v. United States*, 510 U.S. 540, 555(1194).

The cited rulings still do not grant any judge the right and or access to infringe on a citizen’s inalienable rights by selectively deciding who should abide by the law and rules governing the court. It will be contrary to the oath of office and allow this branch to be above the very law in which they are sworn to uphold and defend. The constitutional procedural due process clause is meant to protect persons not from the deprivation, but from the mistaken or unjustified deprivation of life, liberty, or property.

The lower court ruling does not address how the magistrate court continued in its entangled favor for the defendant. The defendant ignored the rules and order of the court by delaying the discovery process in a dilatory manner. The defendant deliberately or willfully did not comply with the magistrate courts pretrial order which required the defendant to work with the plaintiffs during the discovery process.⁶ This act alone should have properly been addressed prior to the extension by the court. This behavior give rise to; 1) Whether the attorney’s disobedience is

⁶ The decision to extend discovery was influenced in part by the defendant lack of response to the plaintiffs inquires and the did not consider the extent of jury the plaintiff’s suffered. This prejudice is evident when considering how the plaintiffs were to take depositions at the end of the discovery extension and the third amended compliant never added any new defendants but removed the two subsidiaries of the defendant’s parent entity.

willful, deliberate, or contumacious, rather than an act of neglect or inexperience; 2) Whether the delay prejudiced the opposing party through undue expense, loss of evidence, or in some other fashion; 3) Whether the attorney offered a reasonable justification for noncompliance; and 4) Whether the delay created significant problems of judicial administration.⁷

The magistrate court points to the lack of trust the petitioner detailed in their letter stating that they no longer seek discovery against the defendants. This letter was issued because of the petitioner continued lack of faith in the judicial process concerning yet another disingenuous act presented by an arm of the court. The court reporting agency neglected to timely inform the petitioner of the site relocation and it was the petitioner who disclosed the relocation error. This action once again solely benefitted the defendant and forfeited the relinquishing trust the petitioner held in an impartial judicial process. More importantly, the plaintiffs were prejudiced by the court actions to extend discovery because the court originally granted eight months of discovery to ascertain the facts. The defendant's willful negligence in complying to the court orders caused the petitioner to be scheduled toward the end of discovery with only three weeks to ascertain their facts. The defendant cannot show compliance to the magistrate court order in record prior to extension nor sufficiently explain why a rush to complete their set of depositions only appear in record after extension was granted. (A-61)

The integrity of the civil litigation process is doomed to failure if it does not depend upon the truthful disclosure of facts. A just and impartial justice system cannot solely depend on an adversary's ability to uncover falsehoods. The calculated

⁷ The magistrate court was already notified that the defendant was not complying to its order as the court stated in DE 49 that "Apparently there is some type of discovery dispute in this matter. At least four of the plaintiffs have called the undersigned's office demanding an in-court hearing. If there is a discovery dispute, the plaintiffs will confer with counsel for the defendants, prepare a joint statement of the issues in dispute and request a telephone conference about the matter with my office."

pleadings or misleading will be engulfed in conduct to evade or stymie discovery. This type behavior must be discouraged in the strongest possible way because such actions constitute serious misconduct and is an obvious affront to the administration of justice, and the courts discretionary determination in fact finding.

The Court noted that “tampering with the administration of justice. . . is a wrong against the institutions set up to protect and safeguard the public, institutions in which fraud cannot complacently be tolerated consistently with the good order of society”. *Hazel Atlas Glass Co. v. Hartford Empire Co.*, 322 U.S. 238 (1944)

It is by the magistrate courts own admission that the defendant wanted to continue forward in the case several months after the plaintiff's amended their third complaint. The court did not offer any reasoning as to why the defendant was not fully engaged in responding and adhering to its court order. The appellate court decision also declines to hold the lower court accountable for a continued infringement upon the petitioner's constitutional rights but elects to spend considerable time in redirecting the interest of justice away from the factual cited evidence. It is unconstitutional to demand and expect any litigant, more over a pro se litigant, to continue in a process, bond by a rule of law, when the court itself have not provided a fair and equal opportunity to ascertain the facts of the case. Case law should not be used as the sole basis of justice when the court itself will not adhere to enforcing case law and federal rules in an impartial manner.

A court officer that will deliberately and knowingly seek to corrupt the legal process should logically expect to be excluded from that process and any decision rendered hereby that suggest bias, prejudice or favoritism should not be allowed to stand as a rule or law.

III. The Ends of Justice Require Disclosure

The appellate court decisions erred once again in not recognizing the fact that the people have a right to freedom of information. The opinion literally dismisses the

allegations as baseless conclusory assertions which should cause great concern for any litigant constitutional right to a procedural due process.

Justice requires disclosure of the factual recordings concerning statements made in each hearing held before the Magistrate judge in this cause of action. The greatest concern to this court should not be if the district court deliberately or materially modified court transcripts and recordings in this cause of action, but if any district court has been engaged in such behavior for an extended period of time. The interest for the citizens of the United States should be assured that its publicly appointed and elected officials are being honest to their oath and in their representations. The interest of the United States citizens, whose service and obedience to its laws are compelled, must be certain that their consent is not mischaracterized by the very publicly appointed and elected officials on whom they rely to advise them.

The court must protect and defend any act of intrusion against its justice system as the constitutional interest of all citizens rest within its integrity. The alleged act of deliberately or materially modifying court transcripts overwrites factual statements and or testimony from record. This would make any De novo review severely transgress the applicable standard of review and ensure any De novo review appear to create a culture that is contempt for the facts and not a judicious decision acceding from the factual evidence entered.⁸

Any reasonable person, conducting an impartial review of the circumstances, would naturally question if the transcripts and recordings were deliberately or materially modified especially when direct evidence reveal court bias concerning inconsistent corporate disclosure pleadings. A reasonable person would also question the validity of the transcripts and recordings if the transcripts and recordings did not reflect key conversations made in the many hearing(s) held before the district court.

⁸ This creates an irresolvable conflict of interest because the court will not be able to uphold its oath of office in protecting and defending the constitutional rights of American citizens and remain impartial to administrator their due process rights of life, liberty or property.

The petitioners cannot cite the record for missing files and or modified recordings on a closed record. The only way the petitioners could have produced direct evidence is if the court allowed them to research and review the district court's stored files on their server. This allegation presents a constitutional issue that demands the integrity of the justice system to remain transparent before the American people because the Federal Justice System, alone, hold the authority of this factual truth.

If the petitioners foreknew that the company they worked for has a legal entity name of Fresenius Medical Care Holdings, Inc.; doing business as Fresenius Medical Care North America,⁹ and wanted to initiate their cause of action against that name and 1) the defendant entered a pretextual pleading that there is no legal connection; 2) petitioners previous counsel of record disputed in favor of the Defendant pretextual pleading and withdrew -(A 69); 3) the district court ignored the federal rule of entry for the corporate disclosure statement and solely relied on the pretextual pleading; and 4) the magistrate court mooted the motion to compel protecting the pretextual pleading¹⁰ (A 45), it would be a reasonable allegation to make if the hearing transcripts did not acutely record and transcribe the statements made by all parties over the Defendant pretextual pleading.¹¹

"You shall not distort justice; you shall not be partial, and you shall not take a bribe, for a bribe blinds the eyes of the wise and prevents the words of the righteous. Justice and only justice, you shall pursue, that you may live and possess the land which the Lord your God is giving you. (King James version, Deuteronomy 16:18-20)

⁹ The Petitioner informed previous council of record that all named legal entities of the defendant were legally connected but previous council refused to file against the defendant's parent entity. Previous council motioned the court to withdraw stating that the petitioner did not want to follow their legal direction. Ferret research reveals that petitioner was well within his rights to file against each name entity and the court had no validated reason to allow council to withdraw which furthered prejudiced the petitioner cause of action because the court never inquired as to what issues persisted.

¹⁰ The district court record only shows the magistrates order was entered as a text document at DE 39

¹¹ The dexterity of the Petitioner, concerning the merits of the case, is very reasonable seeing that he was able to assert such allegations at the start of the case which disclose questionable acts by previous council that favored the defendant pretextual pleading(s).

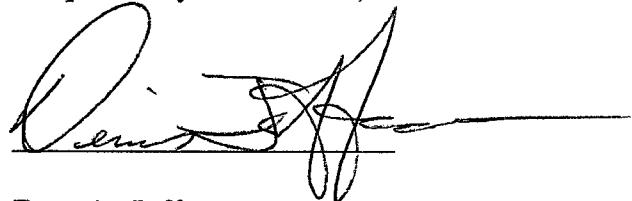
Any form of modification to the original district court file of record is a disingenuous act to expand the court records and obstruct the interest of justice. The lack of inquiry into the allegation of altered transcripts and recordings, upon its face, appears to be an error veered in bias and give rise to a constitutional issue concerning the petitioner right to due process.

“Justice should not only be done, but should manifestly and undoubtedly be seen to be done.” Lord Hewart (1870-1943), in *Rex v. Sussex Justices*

CONCLUSION

Based on the foregoing, the petitioner respectfully submits that this Petition for Writ of Certiorari be granted. The Court may wish to consider summary reversal of the decision(s) by the appellate court of the Six Circuit and the remand of this matter to that court for further proceedings.

Respectfully Submitted,



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