No. 20-7281

IN THE

SUPREME COURT OF THE UNITED STATES

Michael Wright,

Petitioner

v.

Mario Cardenas, Ian Downing, Felix Echevarria, Brandon Layne, Michael B. Strickland, Bradley A. Wheeler and CITY OF KISSIMMEE

Respondents

ON PETITION FOR A WRIT OF CERTIORARI

TO THE

UNITED STATES 11TH CIRCUIT COURT OF APPEALS

PETITION FOR A WRIT OF CERTIORARI

Michael J. Wright-pro se
Petitioner/Counsel of Record
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CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT

Michael Wright vs. *Mario Cardenas*, et al. Supreme Court No._____

Petitioner does not have a parent corporation and is not a publicly held corporation.

Interested parties are:

-Ashton, Jeffrey Lee, Esq.

-Ayala,, Aramis D., Esq.

-Baird, Benjamin David, Esq.

-Bondi, Pamela Jo, Esq.

-Bookbinder, Kevin, Esq.

-Cardenas, Mario

-City of Kissimmee

-Craner, A. James, Esq.

-Downing, Ian M.

-Draper, Carol E., Esq.

-Echevarria, Felix

-Epperson, Hal C., Jr., Esq.

-Florida Bar

-Florida Fifth District Court of Appeal

-Florida Supreme Court

-Forsythe, Ian, Esq.

-Fundora, Liusbel

-Irick, Daniel C., Esq.

-Kelly, Gregory J., Esq.

-Kissimmee Police Department

-Layne, Brandon T.

-Luker, Jacqueline Rae, Esq.

-McClain, David H., Esq.

-Rebecca McGuigan, Esq. Florida Bar No.: 568759

-Mendez, Krissia Eunice, Esq.

-Mendoza, Carlos E., Esq.

-Ninth Judicial Circuit of Florida, Office of the Court Administrator

-Ninth Judicial Circuit of Florida, Office of the Public Defender

-Ninth Judicial Circuit of Florida, Office of the State Attorney

-Office of the Attorney General, State of Florida

-Purdy, James S., Esq.

-Sharp, G. Kendall, Esq.

-Smallwood, Don, Esq.

-Strickland, Michael

-Tynan, Greg A., Esq.

-United States Court of Appeals for the Eleventh Circuit

-United States Supreme Court

-Wheeler, Bradley A.

-Wright, Michael Joseph- Plaintiff, pro se

Questions Presented for Review

The United States Court of Appeals for the 11th Circuit has entered a decision in conflict with relevant decisions of the United States Supreme Court. Has the 11th Circuit so far departed from the accepted and usual course of judicial proceedings, as to call for an exercise of this Court's supervisory power?

The subject matter and issue is Fed. R. Civ. P. Rule 12 Defenses and Objections When and How Presented, ***Does the word "MUST"*** as used in Fed. R. Civ. P. Rule 12(b)How to Present Defenses. Every defense to a claim for relief in any pleading must be asserted in the responsive pleading if one is required. But a party may assert the following defenses by motion: (1) lack of subject-matter jurisdiction; (2) lack of personal jurisdiction; (3) improper venue; (4) insufficient process; (5) insufficient service of process; (6) failure to state a claim upon which relief can be granted; and (7) failure to join a party under Rule 19. A motion asserting any of these defenses must be made before pleading if a responsive pleading is allowed."; Rule 8(b) (1) "(1) *In General.* In responding to a pleading, a party must; (A) state in short and plain terms its defenses to each claim asserted against it; and (B) admit or deny the allegations asserted against it by an opposing party."; and Federal Rules of Evidence Rule 201(c) (2) "(c) Taking Notice. The court: (2) must take judicial notice if a party requests it and the court is supplied with the necessary information.; ***denote, signify and intend that there is no discretion on the part of the (trial) court?*** AND Must a defense of "failure to state a claim upon which relief can be granted" be made before pleading?

Pursuant to Fed. R. Civ. P. "Rule 1. Scope and Purpose-These rules govern the procedure in all civil actions and proceedings in the United States district courts, except as stated in Rule 81. They should be construed, administered, and employed

by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding. Notes of Advisory Committee on Rules—1937 3. These rules are drawn under the authority of the act of June 19, 1934, U.S.C., Title 28, §723b [see 2072] (Rules in actions at law; Supreme Court authorized to make), and §723c [see 2072] (Union of equity and action at law rules; power of Supreme Court) and also other grants of rulemaking power to the Court." **By what authority does the District Court and the Appellate Court disregard and knowingly violate the Rules?**

In consideration of the United States Constitution bill of rights **Amendment 7** "In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law."; Wright has accused the six police officer defendants of committing crimes in an effort to cover up the cause of Wrights disfigured face and broken nose; all six of the defendants have employed the 5th Amendment Right to remain silent. Pursuant to the Federal Rules of Civil Procedure Rule 8 (b) subsection "(6) *Effect of Failing to Deny.* An allegation—other than one relating to the amount of damages—is admitted if a responsive pleading is required and the allegation is not denied. If a responsive pleading is not required, an allegation is considered denied or avoided." The defendants have unlawfully filed a motion for summary judgment under Fed. R. Civ. P. Rule 56. **Is Wright entitled to the application / invocation Rule 56 (g)?**

Supreme Court precedent *Smith v. Wade* 461 U.S. 30(1983): "Punitive

damages are available in a proper case under 1983." Furthermore, on pg.42 "The Court further explained the standard for punitive damages in Milwaukee & St. Paul R. Co. v. Arms, 91 U.S. 489 (1876), a diversity railroad collision case: "Redress commensurate to such [personal] injuries should be afforded. In ascertaining its extent, the jury may consider all the facts which relate to the wrongful act of the defendant, and its consequences to the plaintiff; but they are not at liberty to go farther, unless it was done willfully, or was the result of that reckless indifference to the rights of others which is equivalent to an intentional violation of them. In that case, the jury are authorized, for the sake of public example, to give such additional damages as the circumstances require. The tort is aggravated by the evil motive, and on this rests the rule of exemplary damages." Id., at 493." **Are the evil motives of district court judge Mendoza and the defendants additional FACTS which the jury may consider in determining the reckless indifference to the rights of Wright ?**

In Supreme Court decision *Graham v. Connor* 490 U.S. 386, (1989) an excessive force seizure case, The Court held: an "objective REASONABLENESS analysis standard" under the Fourth Amendment prohibition of unreasonable seizure of person[s] was to be employed; **Is the same objective reasonableness analysis standard appropriate in assessing the crimes of law enforcement persons who do not dispute filing fraudulent probable cause documents, tampering with and fabricating evidence in violation of state law? AND Does the deprivation of liberty and property without due process violate the 14th Amendment due process and/ or equal protection clause[s]?**

In consideration of *McQuiggin v. Perkins 133 S. Ct. 1924* (May 28, 2013). *Held*: "Actual innocence, if proved, serves as a gateway through which a petitioner may

pass whether the impediment is a procedural bar, as it was in *Schlup v. Delo,* 513 U.S. 298, 115 S.Ct. 851, 130 L.Ed.2d 808, and *House v. Bell,* 547 U.S. 518, 126 S.Ct. 2064, 165 L.Ed.2d 1, or expiration of the AEDPA statute of limitations, as in this case. Pp. 7-14." "In Bousley v. United States, 523 U.S.614, 622 (1998), we held, in the context of §2255, that actual innocence may overcome a prisoner's failure to raise a constitutional objection on direct review." P.9 (Slip Opinion) In consideration of the undisputed facts in the record of this proceeding; Has Wright proven and demonstrated his actual innocence to the standard of This Court?

Pursuant to Code of Conduct for United States Judges Canon 2 COMMENTARY Canon 2A, Do the violations of law, and multiple failures of United States District Court Judge Carlos Mendoza to abide by the decisions of this Court, the Federal Rules of Civil Procedure, The Federal Rules of Evidence, and his own court order, constitute an unacceptable appearance of impropriety "when reasonable minds, with knowledge of all the relevant circumstances disclosed by a reasonable inquiry, would conclude that the judge's honesty, integrity, impartiality, temperament, or fitness to serve as a judge is impaired"- call for an exercise of this Court's supervisory power?

Pursuant to the equal protection clause of the 14th Amendment, and *Village of Willowbrook v. Olech,* 528 U.S. 562 (2000) have the privileges and immunities of Petitioner Wright been abridged? And has Wright been denied equal protection of the law[s]?

Pursuant to Rules of Supreme Court Rule 20 and 28 U. S. C. § 1651(a), and the unique exceptional circumstances presented in this extraordinary petition, will granting the writ be in aid of the Court's appellate jurisdiction?

ALL PARTIES APPEAR IN THE CAPTION
OF THE CASE ON THE COVER PAGE.

RELATED CASES

COURT	DOCKET NUMBER&CASE CAPTION		DATE
United States Court of Appeals for the 11th Circuit	19-14757-AA	Michael Wright v. Mario Cardenas et al.	11/10/20
United States District Court Middle District of Florida Orlando Division	6:17 - cv - 00436 - CEM - DCI	Michael J. Wright v. Mario Cardenas et al.	11/05/19
United States District Court Middle District of Florida Orlando Division	6:14 - cv - 01653 - GKS – GJK	Michael Joseph Wright v. Secretary Dept. of Corr. and Attorney General State of Florida	12/03/14
Supreme Court of Florida	SC18-1147	Michael J. Wright v. State of Florida	07/16/18
Supreme Court of Florida	SC15-1701	Michael J. Wright v. State of Florida	10/05/15

Florida Fifth District Court of Appeal	5D18-1500	Michael J. Wright v. State of Florida	06/25/18
Florida Fifth District Court of Appeal	5D15-3861	Michael J. Wright v. State of Florida	04/12/16
Florida Fifth District Court of Appeal	5D15-2053	Michael John Joseph Wright Petitioner v. State of Florida Respondent	06/25/15
Florida Fifth District Court of Appeal	5D15-1999	Michael John Joseph Wright Appellant v. State of Florida Appellee	08/17/15
Circuit Court 9th Judicial Circuit, Osceola County Florida	49-2014-CF-003651	State of Florida v. Michael Joseph Wright	05/08/15
County Court 9th Judicial Circuit, Osceola County Florida [12/16/14 is the date this case was nolle prosequi]	49- 2014- CT- 003885	State of Florida v Michael Joseph Wright	12/16/14
County Court 9th Judicial Circuit, Osceola County Florida- Traffic Division	2014 TR 059134	State of Florida v Michael Joseph Wright	11/05/14

Appendice A materials includes documents from the United States Court of Appeals for the 11th Circuit docket # 19-14757-AA and the United States District Court docket # 6:17 - cv - 00436 - CEM – DCI. Appendice B materials are from United States District Court docket # 6:14 - cv - 01653 - GKS – GJK. Appendice C materials are from County Court 9th Judicial Circuit, Osceola County, Florida, docket # 49-2014- CT- 003885; County Court 9th Judicial Circuit, Osceola County, Florida, Traffic Division, Docket # 2014 TR 059134, Citation # AØG2VEP; Circuit Court 9th Judicial Circuit, Osceola County, Florida, Docket # 49-2014-CF-003651. AND Florida Fifth District Court of Appeal docket numbers, # 5D15-1999, # 5D15-2053, # 5D15-3861, # 5D18-1500; Supreme Court of Florida docket numbers # SC15-1701 and # SC18-1147.

APPENDICES B and C CONTAIN (documents) MATERIAL THE PETITIONER BELIEVES ESSENTIAL TO UNDERSTAND THE PETITION. PETITIONER PROVIDES A PRELIMINARY FACTUAL STATEMENT WITH APPENDICES, A DESCRIPTION OF THE MATERIALITY OF THE NUMEROUS DOCUMENTS.

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Citations of Authorities Page (s)

CASES

STATUTES AND RULES

Each justice or judge of the United States shall take the following oath or affirmation before performing the duties of his office: "I, ___ ___, do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as ___ under the Constitution and laws of the United States. So help me God."

Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:
(1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;

The courts of appeals (other than the United States Court of Appeals for the Federal Circuit) shall have jurisdiction of appeals from all final decisions of the district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands, except where a direct review may be had in the Supreme Court. The jurisdiction of the United States Court of Appeals for the Federal Circuit shall be limited to the jurisdiction described in sections 1292(c) and (d) and 1295 of this title.

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

(a)The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:

(3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States;

28 U.S.C. § 1651 ..... iv, 39

(a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

42 U.S.C. § 1983 ..... 3, 22

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

RULES of the Supreme Court

Rule 10. Considerations Governing Review on Certiorari ..... 39 (every page)

Review on a writ of certiorari is not a matter of right, but of judicial discretion. A petition for a writ of certiorari will be granted only for compelling reasons. The following, although neither controlling nor fully measuring the Court's discretion, indicate the character of the reasons the Court considers:

(a) a United States court of appeals has entered a decision in conflict with the

decision of another United States court of appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power;

(c) a state court or a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or

has decided an important federal question in a way that conflicts with relevant decisions of this Court.

A petition for a writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings or the misapplication of a properly stated rule of law.

Rule 12. Review on Certiorari: How Sought; Parties

2. A petitioner proceeding in forma pauperis under Rule 39 shall file an original and 10 copies of a petition for a writ of certiorari prepared as required by Rule 33.2, together with an original and 10 copies of the motion for leave to proceed in forma pauperis. A copy of the motion shall precede and be attached to each copy of the petition. An inmate confined in an institution, if proceeding in forma pauperis and not represented by counsel, need file only an original petition and motion.

3. Whether prepared under Rule 33.1 or Rule 33.2, the petition shall comply in all respects with Rule 14 and shall be submitted with proof of service as required by Rule 29. The case then will be placed on the docket. It is the petitioner's duty to notify all respondents promptly, on a form supplied by the Clerk, of the date of filing, the date the case was placed on the docket, and the docket number of the case. The notice shall be served as required by Rule 29.

Rule 14. Content of a Petition for a Writ of Certiorari ..... Entire document

1. A petition for a writ of certiorari shall contain, in the order indicated:

(a) The questions presented for review, expressed concisely in relation to the circumstances of the case, without unnecessary detail. The questions should be short and should not be argumentative or repetitive. If the petitioner or respondent is under a death sentence that may be affected by the disposition of the petition, the notation "capital case" shall precede the questions presented. The questions shall be set out on the first page following the cover, and no other information may appear on that page. The statement of any question presented is deemed to comprise every subsidiary question fairly included therein. Only the questions set out in the petition, or fairly included therein, will be considered by the Court. ..... i, v

(b) (i) A list of all parties to the proceeding in the court whose judgment is sought to be reviewed (unless the caption of the case contains the names of all the parties); v

(ii) a corporate disclosure statement as required by Rule 29.6; and ... CIP1, CIP2

(iii) a list of all proceedings in state and federal trial and appellate courts, including proceedings in this Court, that are directly related to the case in this Court. For each such proceeding, the list should include the court in question, the docket number and case caption for the proceeding, and the date of entry of the judgment. For the purposes of this rule, a case is "directly related" if it arises from

the same trial court case as the case in this Court (including the proceedings directly on review in this case), or if it challenges the same criminal conviction or sentence as is challenged in this Court, whether on direct appeal or through state or federal collateral proceedings. ..... v, vi

(c)If the petition prepared under Rule 33.1 exceeds 1,500 words or exceeds five pages if prepared under Rule 33.2, a table of contents and a table of cited authorities. The table of contents shall include the items contained in the appendix.

(d) Citations of the official and unofficial reports of the opinions and orders entered in the case by courts or administrative agencies. 1

(e) A concise statement of the basis for jurisdiction in this Court, showing: (i) the date the judgment or order sought to be reviewed was entered (and, if applicable, a statement that the petition is fled under this Court's Rule 11); (ii) the date of any order respecting rehearing, and the date and terms of any order granting an extension of time to file the petition for a writ of certiorari; (iii) express reliance on Rule 12.5, when a cross petition for a writ of certiorari is fled under that Rule, and the date of docketing of the petition for a writ of certiorari in connection with which the cross-petition is fled; (iv) the statutory provision believed to confer on this Court jurisdiction to review on a writ of certiorari the judgment or order in question; and (v) if applicable, a statement that the notifications required by Rule 29.4(b) or (c) have been made. 1

(f) The constitutional provisions, treaties, statutes, ordinances, and regulations involved in the case, set out verbatim with appropriate citation. If the provisions involved are lengthy, their citation alone suffices at this point, and their pertinent text shall be set out in the appendix referred to in subparagraph 1(i). 2, 3

(g) A concise statement of the case setting out the facts material to consideration of the questions presented, and also containing the following: (i) If review of a state court judgment is sought, specification of the stage in the proceedings, both in the court of first instance and in the appellate courts, when the federal questions sought to be reviewed were raised; the method or manner of raising them and the way in which they were passed on by those courts; and pertinent quotations of specific portions of the record or summary thereof, with specific reference to the places in the record where the matter appears (e. g., court opinion, ruling on exception, portion of court's charge and exception thereto, assignment of error), so as to show that the federal question was timely and properly raised and that this Court has jurisdiction to review the judgment on a writ of certiorari. When the portions of the record relied on under this subparagraph are voluminous, they shall be included in the appendix referred to in subparagraph 1(i). (ii) If review of a judgment of a United States court of appeals is sought, the basis for federal jurisdiction in the court of first instance. ..... 3 - 36

3. Any document required by these Rules to be served may be served personally, by mail, or by third-party commercial carrier for delivery within 3 calendar days on each party to the proceeding at or before the time of filing. If the document has been prepared as required by Rule 33.1, three copies shall be served on each other party separately represented in the proceeding. If the document has been prepared as required by Rule 33.2, service of a single copy on each other separately represented party suffices. If personal service is made, it shall consist of delivery at the office of the counsel of record, either to counsel or to an employee therein. If service is by mail or third-party commercial carrier, it shall consist of depositing the document with the United States Postal Service, with no less than first-class postage prepaid, or delivery to the carrier for delivery within 3 calendar days, addressed to counsel of record at the proper address. When a party is not represented by counsel, service shall be made on the party, personally, by mail, or by commercial carrier. Ordinarily, service on a party must be by a manner at least as expeditious as the manner used to file the document with the Court. An electronic version of the document shall also be transmitted to all other parties at the time of filing or reasonably contemporaneous therewith, unless the party filing the document is proceeding pro se and in forma pauperis or the electronic service address of the party being served is unknown and not identifiable through reasonable efforts.

Federal Rules of Civil Procedure

These rules govern the procedure in all civil actions and proceedings in the United States district courts, except as stated in Rule 81. They should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding.

Notes of Advisory Committee on Rules—1937

3. These rules are drawn under the authority of the act of June 19, 1934, U.S.C., Title 28, §723 b and §723 c (Rules in actions at law; Supreme Court authorized to make)

Rule 4. Summons

(1) *Requesting a Waiver.* An individual, corporation, or association that is subject to service under Rule 4(e), (f), or (h) has a duty to avoid unnecessary expenses of serving the summons. The plaintiff may notify such a defendant that an action has been commenced and request that the defendant waive service of a summons.

The notice and request must:

(A) be in writing and be addressed:

(i) to the individual defendant; or

(ii) for a defendant subject to service under Rule 4(h), to an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process;

(B) name the court where the complaint was filed;

(C) be accompanied by a copy of the complaint, 2 copies of the waiver form appended to this Rule 4, and a prepaid means for returning the form;

(D) inform the defendant, using the form appended to this Rule 4, of the consequences of waiving and not waiving service;

(E) state the date when the request is sent;

(F) give the defendant a reasonable time of at least 30 days after the request was sent—or at least 60 days if sent to the defendant outside any judicial district of the United States—to return the waiver; and

(G) be sent by first-class mail or other reliable means.

(2) *Failure to Waive.* If a defendant located within the United States fails, without good cause, to sign and return a waiver requested by a plaintiff located within the United States, the court must impose on the defendant:

(A) the expenses later incurred in making service; and

(B) the reasonable expenses, including attorney's fees, of any motion required to collect those service expenses.

Rule 8. General Rules of Pleading

(b)Defenses; Admissions and Denials. ..... i, ii, 9, 16,

(1) *In General.* In responding to a pleading, a party must:

(A) state in short and plain terms its defenses to each claim asserted against it; and

(B) admit or deny the allegations asserted against it by an opposing party.

(2) *Denials—Responding to the Substance.* A denial must fairly respond to the substance of the allegation.

(3) *General and Specific Denials.* A party that intends in good faith to deny all the allegations of a pleading—including the jurisdictional grounds—may do so by a general denial. A party that does not intend to deny all the allegations must either specifically deny designated allegations or generally deny all except those specifically admitted.

(4) *Denying Part of an Allegation.* A party that intends in good faith to deny only part of an allegation must admit the part that is true and deny the rest

(5) *Lacking Knowledge or Information.* A party that lacks knowledge or information sufficient to form a belief about the truth of an allegation must so state, and the statement has the effect of a denial.

(6) *Effect of Failing to Deny.* An allegation—other than one relating to the amount of damages—is admitted if a responsive pleading is required and the allegation is not denied. If a responsive pleading is not required, an allegation is considered denied or avoided. ..... ii, 20

(c)Affirmative Defenses 9

(1) *In General.* In responding to a pleading, a party must affirmatively state any avoidance or affirmative defense, including: • accord and satisfaction; • arbitration and award; • assumption of risk; • contributory negligence; • duress; • estoppel; • failure of consideration; • fraud; • illegality; • injury by fellow servant; • laches; • license; • payment; • release; • res judicata; • statute of frauds; • statute of limitations; and • waiver.

Rule 9. Pleading Special Matters

(b)Fraud or Mistake; 21, 24-30,

In alleging fraud or mistake, a party must state with particularity the circumstances constituting fraud or mistake.

Rule 11. Signing Pleadings, Motions, and Other Papers; Representations to the Court; Sanctions

(b)Representations to the Court. By presenting to the court a pleading, written motion, or other paper—whether by signing, filing, submitting, or later advocating it—an attorney or unrepresented party certifies that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

(1) it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; 11

(2) the claims, defenses, and other legal contentions are warranted by existing law or by a non-frivolous argument for extending, modifying, or reversing existing law or for establishing new law;(3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information.

(c)Sanctions

(1) *In General.* If, after notice and a reasonable opportunity to respond, the court determines that Rule 11(b) has been violated, the court may impose an appropriate sanction on any attorney, law firm, or party that violated the rule or is responsible for the violation. Absent exceptional circumstances, a law firm must be held jointly responsible for a violation committed by its partner, associate, or employee.

(2) *Motion for Sanctions.* A motion for sanctions must be made separately from any other motion and must describe the specific conduct that allegedly violates Rule 11(b). The motion must be served under Rule 5, but it must not be filed or be presented to the court if the challenged paper, claim, defense, contention, or denial is withdrawn or appropriately corrected within 21 days after service or within another time the court sets. If warranted, the court may award to the prevailing party the reasonable expenses, including attorney's fees, incurred for the motion.

(3) *On the Court's Initiative.* On its own, the court may order an attorney, law firm, or party to show cause why conduct specifically described in the order has not violated Rule 11(b).

(a)Time to Serve a Responsive Pleading

(1) *In General.* Unless another time is specified by this rule or a federal statute, the time for serving a responsive pleading is as follows:

(A) A defendant must serve an answer:

(i) within 21 days after being served with the summons and complaint; or

(ii) if it has timely waived service under Rule 4(d), within 60 days after the request for a waiver was sent, or within 90 days after it was sent to the defendant outside any judicial district of the United States.

(b) How to Present Defenses. Every defense to a claim for relief in any pleading must be asserted in the responsive pleading if one is required. But a party may assert the following defenses by motion:

(1) lack of subject-matter jurisdiction;

(2) lack of personal jurisdiction;

(3) improper venue;

(4) insufficient process;

(5) insufficient service of process;

(6) failure to state a claim upon which relief can be granted; and 31

(7) failure to join a party under Rule 19.

A motion asserting any of these defenses must be made before pleading if a responsive pleading is allowed. If a pleading sets out a claim for relief that does not require a responsive pleading, an opposing party may assert at trial any defense to that claim. No defense or objection is waived by joining it with one or more other defenses or objections in a responsive pleading or in a motion.

Rule 12(c) 5, 9, 16, 17

(c) Motion for Judgment on the Pleadings. After the pleadings are closed—but early enough not to delay trial—a party may move for judgment on the pleadings.

Rule 12(h) (2) 8, 9, 16

(h)Waiving and Preserving Certain Defenses.

(2) *When to Raise Others.* Failure to state a claim upon which relief can be granted, to join a person required by Rule 19(b), or to state a legal defense to a claim may be raised:

(A) in any pleading allowed or ordered under Rule 7(a);

(B) by a motion under Rule 12(c); or

(C) at trial.

Rule 15. Amended and Supplemental Pleadings 15

(a)Amendments Before Trial

(2) *Other Amendments.* In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires.

Rule 16. Pretrial Conferences; Scheduling; Management 17

(b)Scheduling

(4) *Modifying a Schedule.* A schedule may be modified only for good cause and with the judge's consent.

(f)Sanctions

(1) *In General.* On motion or on its own, the court may issue any just orders, including those authorized by Rule 37(b)(2)(A)(ii)–(vii), if a party or its attorney:

(A) fails to appear at a scheduling or other pretrial conference;

(B) is substantially unprepared to participate—or does not participate in good faith—in the conference; or

(C) fails to obey a scheduling or other pretrial order.

Rule 26. Duty to Disclose; General Provisions Governing Discovery

(a)Required Disclosures.

(1) *Initial Disclosure.*

(A) *In General.* Except as exempted by Rule 26(a)(1)(B) or as otherwise stipulated or ordered by the court, a party must, without awaiting a discovery request, provide to the other parties:

(i) the name and, if known, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment; 14,15,34

(ii) a copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment; 14,15,34

(iv) for inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.

Rule 55 Default; Default Judgment 19

(a) Entering A Default. When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default.

Rule 56. Summary Judgment 12, 13

(a)Motion for Summary Judgment or Partial Summary Judgment. 13

A party may move for summary judgment, identifying each claim or defense — or the part of each claim or defense — on which summary judgment is sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court should state on the record the reasons for granting or denying the motion.

(b)Time to File a Motion. 13

Unless a different time is set by local rule or the court orders otherwise, a party may file a motion for summary judgment at any time until 30 days after the close of all discovery.

(c)(2) *Objection That a Fact Is Not Supported by Admissible Evidence.* 13, 34

A party may object that the material cited to support or dispute a fact cannot be presented in a form that would be admissible in evidence.

(e) Failing to Properly Support or Address A Fact. 13

If a party fails to properly support an assertion of fact or fails to properly address another party's assertion of fact as required by Rule 56(c), the court may:

(1) give an opportunity to properly support or address the fact;

(2) consider the fact undisputed for purposes of the motion;

(3) grant summary judgment if the motion and supporting materials — including the facts considered undisputed — show that the movant is entitled to it; or

(4) issue any other appropriate order.

(g)Failing to Grant all the Requested Relief. ii

If the court does not grant all the relief requested by the motion, it may enter an order stating any material fact — including an item of damages or other relief — that is not genuinely in dispute and treating the fact as established in the case.

(h)Affidavit or Declaration Submitted in Bad Faith. 13

If satisfied that an affidavit or declaration under this rule is submitted in bad faith or solely for delay, the court — after notice and a reasonable time to respond — may order the submitting party to pay the other party the reasonable expenses, including attorney's fees, it incurred as a result. An offending party or attorney may also be held in contempt or subjected to other appropriate sanctions.

Federal Rules of Evidence

Rule 101. Scope; Definitions (a) Scope. 34

These rules apply to proceedings in United States courts. The specific courts and

proceedings to which the rules apply, along with exceptions, are set out in Rule 1101.

(b) Definitions. In these rules:(1) "civil case" means a civil action or proceeding; (2) "criminal case" includes a criminal proceeding;(3) "public office" includes a public agency;(4) "record" includes a memorandum, report, or data compilation; (5) a "rule prescribed by the Supreme Court" means a rule adopted by the Supreme Court

testifies and is subject to cross-examination about a prior statement, and the statement:

Rule 802. The Rule Against Hearsay 34

Hearsay is not admissible unless any of the following provides otherwise: a federal statute; these rules; or other rules prescribed by the Supreme Court.

Rule 803. Exceptions to the Rule Against Hearsay The following are not excluded by the rule against hearsay, regardless of whether the declarant is available as a witness:

(4) *Statement Made for Medical Diagnosis or Treatment.* A statement that:

(A) is made for — and is reasonably pertinent to — medical diagnosis or treatment; and

(B) describes medical history; past or present symptoms or sensations; their inception; or their general cause.

Rule 1101. Applicability of the Rules (a) To Courts and Judges. 34

These rules apply to proceedings before: · United States district courts; · United States bankruptcy and magistrate judges; · United States courts of appeals; · the United States Court of Federal Claims; and · the district courts of Guam, the Virgin Islands, and the Northern Mariana Islands. (b) To Cases and Proceedings. These rules apply in: civil cases and proceedings, including bankruptcy, admiralty, and maritime cases; criminal cases and proceedings; and · contempt proceedings, except those in which the court may act summarily.

Code of Conduct for United States Judges ..... iv, 39

Canon 2: A Judge Should Avoid Impropriety and the Appearance of Impropriety in all Activities

(A) *Respect for Law.* A judge should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. 40

(B) *Outside Influence.* A judge should not allow family, social, political, financial, or other relationships to influence judicial conduct or judgment. A judge should neither lend the prestige of the judicial office to advance the private interests of the judge or others nor convey or permit others to convey the impression that they are in a special position to influence the judge. A judge should not testify voluntarily as a character witness.

(C) *Nondiscriminatory Membership.* A judge should not hold membership in any organization that practices invidious discrimination on the basis of race, sex, religion, or national origin.

Canon 2A. An appearance of impropriety occurs when reasonable minds, with knowledge of all the relevant circumstances disclosed by a reasonable inquiry, would conclude that the judge's honesty, integrity, impartiality, temperament, or fitness to serve as a judge is impaired. Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges, including harassment and other inappropriate workplace behavior. A judge must avoid all impropriety and appearance of impropriety. This prohibition applies to both professional and personal conduct. A judge must expect to be the subject of constant public scrutiny and accept freely and willingly restrictions that might be viewed as burdensome by the ordinary citizen. Because it is not practicable to list all prohibited acts, the prohibition is necessarily cast in general terms that extend to conduct by judges that is harmful although not specifically mentioned in the Code. Actual improprieties under this standard include violations of law, court rules, or other specific provisions of this Code.

Amendment to Table of Contents

2. 81/2- by 11-Inch Paper Format:

(a) The text of every document, including any appendix thereto, expressly permitted by these Rules to be presented to the Court on 81/2- by 11-inch paper shall appear double spaced, except for indented quotations, which shall be single spaced, on opaque, unglazed, white paper. The document shall be stapled or bound at the upper left-hand corner. Copies, if required, shall be produced on the same type of paper and shall be legible. The original of any such document (except a motion to dismiss or affrm under Rule 18.6) shall be signed by the party proceeding pro se or by counsel of record who must be a member of the Bar of this Court or an attorney appointed under the Criminal Justice Act of 1964, see 18 U. S. C. SUPREME COURT RULE 34 47 § 3006A(d)(7), or under any other applicable federal statute. Subparagraph 1(g) of this Rule does not apply to documents prepared under this paragraph.

(b) Page limits for documents presented on 81/2- by 11-inch paper are: 40 pages for a petition for a writ of certiorari, jurisdictional statement, petition for an extraordinary writ, brief in opposition, or motion to dismiss or affirm; and 15 pages for a reply to a brief in opposition, brief opposing a motion to dismiss or affirm, supplemental brief, or petition for rehearing. The exclusions specified in subparagraph 1(d) of this Rule apply.

OPINIONS BELOW

The opinion of the United States court of appeals appears at Appendix A to the petition and is unpublished.

The opinion of the United States district court appears at Appendix A to the petition and is unpublished.

Jurisdiction

Federal Court

The date on which the United States Court of Appeals decided my case was June 30, 2020.

A timely petition for rehearing was denied by the United States Court of Appeals on November 10, 2020, and a copy of the order denying rehearing appears at Appendix A pg. A3

The jurisdiction of this Court is invoked under U.S.C. § 1254(1).

State Court

In review of a state court judgment, the jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a)

28 U.S. C. § 1257 - State courts; certiorari

(a) Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

Constitutional Provisions

United States Constitution Article III

Section I The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

Section 2 The judicial Power shall extend to all cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;...

United States Constitution Article VI

Clause 2 This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

United States Constitution Amendments 4, 6, 7, 8 and 14

Amendment 4 The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment 6 In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

Amendment 7 In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Amendment 8 Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment 14 Section 1 All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

A concise statement of the case-

The facts material to consideration of the questions presented

Facts of accuracy, brevity, and clarity

Pursuant to Supreme Court Rule 14(g) (ii), review of a United States court of Appeals is sought. The basis for the district court's jurisdiction: Plaintiff has alleged a claim for violation of civil rights pursuant to 42 U.S.C. § 1983. Jurisdiction is conferred upon the district court pursuant to the provisions of 28 U.S.C. § 1331 and 28 U.S.C. § 1343(a)(3). The Circuit Court had appellate jurisdiction pursuant to 28 U.S.C. § 1291. The District Court entered a final judgment granting Mario Cardenas, Ian Downing, Felix Echevarria, Brandon Layne, Michael B. Strickland, Bradley A. Wheeler and CITY OF KISSIMMEE Motion for Summary Judgment on November 5, 2019. (Doc. 256). Notice of appeal was timely filed on November 27, 2019.

On April 23, 2018, Wright filed a sworn Second Amended Complaint, a 42 U.S.C. § 1983 claim for violations of Wrights 4th, 6th, 8th and 14th Amendment Rights. Wright brought the suit against the defendants Mario Cardenas, Ian Downing, Felix Echevarria, Brandon Layne, Michael B. Strickland, Bradley A. Wheeler in their official capacity as employees of the Kissimmee Police Department.*Doc.*157. Wrights complaint asserts defendant Mario Cardenas, while driving an undercover Kissimmee Police Department automobile crashed into bicyclist Wright in front of the Salvation Army Family Retail Store at 105 W. Vine

St. Kissimmee, FL. at approximately 22:14. (*Doc.* 157 pgs. 5, 6; # 3. Statement of claim, and, paragraph 1). The Complaint further asserts defendant Cardenas watched and did not intervene when either or both defendants Brandon Layne and Bradley Wheeler jumped on Wrights Back, handcuffed Wright, and while Wright was handcuffed face down on the ground with either defendant Layne or defendant Wheeler on Wrights back, Wrights head and face were repeatedly smashed into the asphalt/concrete pavement. Wrights face was disfigured and his nose was broken. Paragraph #3 pg. 7 of 20 of Complaint expressly states: "Defendant Cardenas did not even file a written report at the time of the crash on October 4, 2014". (As Wright continues the preparation of this petition on Saturday, December 12, 2020, over 6 yrs. later, Wright is still uncertain of the extent of the damage to Wrights property, the bicycle.) "Unknown KPD officers stole the bicycle (property) of Plaintiff- and did not place it into evidence. Why?" That verbatim quotation was provided in paragraph #15 at the top of pg.15 of 20, last sentence of the first incomplete paragraph. *Doc.* 157. IN THIS proceeding Defendant Cardenas has failed to submit <u>any</u> evidence. No written statement, affidavit or deposition of Defendant Cardenas exists in the record of this proceeding or anywhere else. All defendants have employed the 5th Amendment Right *to remain silent.* A verbatim quotation of Document 157 paragraph #2 pgs.6, 7 of 20 which states:

> "#2- Plaintiff was transported to the hospital and was treated by Doctor Bethany Lucille Ballinger . Dr. Ballinger authored the <u>HPI-Motor Vehicle Crash</u> report that was provided as Exhibit with document 127 *Id.* at 21of21 and document 129 medical records attachments. Documented in the Additional hpi notes: section of the report, Dr. Ballinger states: "56 yr. old male brought to ED by EMS due to getting hit by a car. Pt. states he was hit from back of his bicycle by a car." Dr. Ballinger further states: "As per police officer he was being pursued _____." (Plaintiff has masked the next 4 words in the statement of Dr. Ballinger because defendant Cardenas has no memory of October 4, 2014. However, the words of defendant Cardenas contradict the words of perjurer Felix Echevarria.) Dr. Ballinger's further definite statement declares "Police officer states that <u>other police officers pushed him off the bike.</u>" Plaintiff emphasizes the underlined information.

Because, it completely contradicts the sworn written statement of defendant Brandon T. Layne.(See Plaintiffs definite statement this document Brandon T. Layne paragraphs.) Plaintiff has filed PLAINTIFF WITNESS LIST (Doc.139). Dr. Ballinger, Bethany Lucille MD- Osceola Regional Medical Center, 700 W. Oak St; Kissimmee, Fl. 34741. (407)846-2260. SUBJECT MATTER: Attending physician to victims (plaintiff) injuries due to getting hit by KPD vehicle and then having his face smashed into the asphalt/concrete pavement. Her report is provided in Documents 127 and 129 (IT WILL BE NOTED THAT PLAINTIFF HAS "masked" FOUR WORDS- WHEN DEFENDANT CARDENAS DEMONSTRATES THAT HE EVEN HAS ANY MEMORY OF OCTOBER 4, 2014 BETWEEN 22:12 and 23:09 THEN WILL WRIGHT "unmask" the FOUR WORDS. WRIGHT DOES ADVISE THAT THE ALLEGED WORDS OF CARDENAS AS REPORTED BY DR. BALLINGER DO CONTRADICT THE STATEMENT OF PERJURER DEFENDANT FORMER KPD OFFICER ECHEVARRIA." ***pgs.6&7 of 20***

Page 8 of 20, paragraph 5 of *Doc.* 157verbatim quotation "#5- In an effort to cover-up the true cause of Plaintiffs injuries, defendant police officers have made many false accusations and statements."

Pg. 13 of 20 paragraph 12 *Doc.* 157 verbatim quotation. "#12- In support of the unconstitutional seizure of Plaintiff by Defendants Cardenas, Layne and Wheeler, Defendant Ian M. Downing filed a perjured probable cause affidavit that was the basis for prosecution in the Courtroom of the Honorable Hal C. Epperson, County Court, In and For Osceola County, Fl. Case No. 2014 CT 003885. [Appendix C pgs. C7, C8] The falsified document(s) were the basis for the prosecution of Florida Statute 316.061 Leave Scene of Accident with property damage. Krissia Eunice Mendez, Florida Bar #112642 was the Assistant State Attorney. On December 12, 2014, ASA Mendez filed STATE WITNESS LIST. Felix Echevarria (and his perjured probable cause statement)was "listed" with Ian Downing and Michael B. Strickland. [Appendix C pgs.C9, C10] On December 16, 2014 in the open courtroom of Judge Epperson, Defendant Wright, pro se, disclosed to Mendez the misconduct of defendants Echevarria, Strickland and Downing. ASA Mendez filed a NOLLE PROSEQUI ."[*Appendix* C pgs. C13, C14]

Muck Around and Find Out the TRUTH of Lying

Defendant Felix Echevarria's Brady Violation(s)

Attached to Appendix C of this petition pg. C34; it is Pg. ID 84 as paginated by the clerk of the United States District Court. It is NOTICE OF PROVISIONAL DISCOVERY originally filed by former defendant Assistant State Attorney Benjamin David Baird; filed pursuant to *Brady v. Maryland*. It states: "2) Felix Echevarria has been suspended by the Kissimmee Police Department for he [*sic*] pendency of an administrative and criminal investigation." *Doc.*157 paragraph 18:

> paragraph 18 verbatim quotation: "#18- Defendant Felix Echevarria filed perjured probable cause affidavit in effort to cover-up the cause of plaintiff's injuries. The false statements of Defendant Echevarria in Case No. 2014 CT 003885 demonstrate Mr. Echevarria's wanton predilection for subverting truth, perpetrating fraud on state courts and denying citizens constitutional rights. See paragraphs #12, #13. Wright was transported from the hospital to the jail by KPD employee undercover perjurer officer Felix Echevarria Jr. In support of the unconstitutional seizure of Plaintiff, Kissimmee Police Department employee(former) Felix Echevarria filed a perjured probable cause arrest affidavit that was the basis for prosecution in the Circuit Court, In and For Osceola County, Fl. Case No. 2014 CF 003651. [*Appendix* C pgs. C19 – C21] "Kissimmee Police Department employee, undercover perjurer, detective Felix Echevarria concocted numerous material facts which are/were deliberate and reckless departures from reality- in an effort to cover up, justify, and rationalize his associates unlawful and unconstitutional conduct- which resulted in Defendant Wright's broken nose." Felix Echevarria filed Citation #A0G2VEP [*Appendix* C pgs. C16, C17] in the County Court in Case No. 2014 TR059134. However, Plaintiff was not issued the traffic citation when he was unconstitutionally seized by members of Kissimmee Police Department. Plaintiff was not told he was being issued a traffic citation. In a sworn statement, Felix Echevarria stated that he issued Plaintiff a citation. The citation filed by Felix Echevarria does not bear the signature of Michael J. Wright. The citation was not certified as having been delivered to the person cited above. (Michael J. Wright). Felix Echevarria declined to certify the charge. Copy of the fraudulent citation is provided as exhibit to document 145. On March 7, 2017, Plaintiff was coerced into paying $113.75 to Armando Ramirez, Clerk of the Court Osceola County, Florida for the fraudulent citation. *Appendix* C pg. C15. Felix Echevarria violated the due process Rights of Petitioner. On March 19, 2016, while the 5th DCA was exercising jurisdiction in the cause of Florida v. Wright, Assistant State Attorney Benjamin Baird filed a NOTICE OF PROVISIONAL SUPPLEMENTAL

DISCOVERY in the Circuit Court. The information was provided pursuant to Brady v. Maryland and stated the following :1)Felix Echevarria is a witness in this prosecution 2)Felix Echevarria has been suspended by he [sic] Kissimmee Police Department for he pendency of an administrative and criminal investigation. Upon receipt of the disclosure, Plaintiff advised the 5th DCA. The 5th DCA, after disclosure by Plaintiff of the information, affirmed and mandated further proceedings in the circuit court. [*Appendix* C pg. C40] On February 28, 2018 at about 9:10 a.m. Plaintiff contacted Mirnaly Maldonado, secretary to Chief Jeff O'Dell of the Kissimmee Police Department. Ms. Maldonado has knowledge of Defendant Felix Echevarria, and, that he is not employed by KPD. Plaintiff, as already stated has filed PLAINTIFF WITNESS LIST (Doc.139) and SUPPLEMENTAL PLAINTIFF WITNESS LIST (Doc.140). On pages 2-3 are the following witnesses who are able to provide definite statements about Defendant Felix Echevarria. *See* Doc. 140. The character witnesses who have personal knowledge are: Edwards, William- Chief Investigator, State Attorney Office, 2 Courthouse Sq., Kissimmee, Fl. 34741 SUBJECT MATTER: Kissimmee Police officers Perpetratin' fraud on state courts. Kammeraad, Joshua- Assistant Public Defender, 2 Courthouse Sq., Kissimmee, Fl. 34741 SUBJECT MATTER: Personal witness to Kissimmee Police perjuren' and plotting to subvert justice. O'Dell, Jeff- Chief, Kissimmee Police Department, 8 N. Stewart Av; Kissimmee, Fl. 34741.(407) 847-0176. SUBJECT MATTER: The Long History of misconduct by former KPD employee, habitual liar and perjurer defendant Echevarria. The arrest, prosecution, and dismissal of Mr. Echevarria and his perjure associates. Schlarf, Shannon-- Assistant State Attorney, 2 Courthouse Sq., Suite 3500; Kissimmee, Fl. 34741.SUBJECT MATTER: Personal knowledge of the official misconduct habits of defendant Echevarria and his known perjure associate(s) and accomplices Detective Danielle Tiffany Hall and Detective Taylor McFee. Smallwood, Don- City Attorney – Kissimmee, Fl. Office of City Attorney, 101 Church St; Kissimmee, Fl. 34741. (407)518-2310. SUBJECT MATTER: Law. City policy concerning perjurer employees; does the city cooperate in protecting perjurer employees from victim plaintiff ? Succi, Christopher- Investigator, Judicial Services, Kissimmee Police Department, 8 N. Stewart Av; Kissimmee, Fl. 34741. (407) 847-0176ext.3232. SUBJECT MATTER: Personal knowledge of the official misconduct habits of defendant Echevarria and Echevarria's known accomplices Detective Danielle Tiffany Hall and Detective Taylor McFee. Investigator Succi is the Officer responsible for the Kissimmee Police Department Judicial Services Warrant Entry Form and Arrest Affidavit as the basis to request an arrest warrant that was signed by defendant A. James Craner.[*Appendix* A pg. A117] Assistant State Attorney Shannon

> Schlarf, William Edwards of the Chief Investigators Office of the Ninth Judicial Circuit and Joshua Kammeraad of the Public Defender's Office have personal knowledge of defendant Echevarria's wanton predilection for subverting truth, perpetratin' fraud on court(s), and denyin' citizens constitutional Rights."

Defendant Echevarria does not deny that he, defendant Echevarria is a habitual perjurer who filed a perjured probable cause affidavit alleging false, fictitious and invented crimes against Petitioner Wright in order to cover up the true and actual details of the events that resulted in Petitioner Wrights disfigured face and broken nose. Defendant Echevarria has filed no statement, affidavit, deposition or evidence in this case. Prior to defendant Echevarria's third and final termination in March of 2016, Echevarria had previously been fired (2X) for lying and misconduct. Appendix A pg. A117 is the request for an arrest warrant from Judge A. James Craner

Defendant's Defense

On May 14, 2018, Defendants filed 3 pg. Document 160 with no attachments or affidavits; Doc. 160 is attached with Appendix A pgs. A114-A116. The title of the responsive pleading document "Answer and Affirmative Defenses to Plaintiff's Second Amended Complaint for Defendant City of Kissimmee". The first sentence of the pleading states: "Defendant City of Kissimmee files this answer and affirmative defenses to the Plaintiff's second amended complaint." Federal Rules of Civil Procedure Rule 12 governs Defenses and Objections. Rules 12(b) and 12(h) verbatim quotation:

> "(b)How to Present Defenses. Every defense to a claim for relief in any pleading must be asserted in the responsive pleading if one is required. But a party may assert the following defenses by motion: (1) lack of subject-matter jurisdiction; (2) lack of personal jurisdiction; (3) improper venue; (4) insufficient process; (5) insufficient service of process; (6) failure to state a claim upon which relief can be granted; and (7) failure to join a party under Rule 19.A motion asserting any of these defenses must be made before pleading if a responsive pleading is allowed. If a pleading sets out a claim for relief that does not require a responsive pleading, an opposing party may assert at trial any defense to that claim. No defense or objection is waived by

joining it with one or more other defenses or objections in a responsive pleading or in a motion."

Pursuant to Rule 12(h) "Waiving and Preserving Certain Defenses.

(2) *When to Raise Others.* Failure to state a claim upon which relief can be granted, to join a person required by Rule 19(b), or to state a legal defense to a claim may be raised:(A) in any pleading allowed or ordered under Rule 7(a);(B) by a motion under Rule 12(c); or(C) at trial."

No pleading was allowed or ordered under Rule 7(a); Defendants did not present the defense of Failure to state a claim upon which relief can be granted by a motion under Rule 12(c). Document 238 is the Joint Final Pretrial Statement signed by counsel for the defendants and Wright, Appendix A pg. A86, Defendant's concise statement of those issues which remain to be litigated does not include a legal defense of failure to state a claim upon which relief can be granted. Page A87 paragraph 13 "A concise statement of any disagreement as to the application of the Federal Rules of Evidence or the Federal Rules of Civil Procedure." "NONE." Wrights Second Amended Complaint, asserted claim(s) for violations of Wrights 4th, 6th, 8th and 14th Amendment Rights. *Plural and Multiple claims.* Rule 8 (b) (1) (A) states "(1) *In General.* In responding to a pleading, a party must: (A) state in short and plain terms its defenses to each claim asserted against it;". And Rule 8(c) states (c) Affirmative Defenses "(1) *In General.* In responding to a pleading, a party must affirmatively state any avoidance or affirmative defense, including: • accord and satisfaction; • arbitration and award; • assumption of risk; • contributory negligence; • duress; • estoppel; • failure of consideration; • fraud; • illegality; • injury by fellow servant; • laches; • license; • payment; • release; • res judicata; • statute of frauds; • statute of limitations; and • waiver." Paragraph 2 of defendants Document 160 verbatim quotation "Defendant denies the remaining allegations of Plaintiff's Second Amended Complaint". Respondents are the defendants whose Document 160 failed to state in short and plain terms its defenses to each claim- the 6th, 8th and 14th Amendment Rights of Petitioner Wright.

District Court Case Management and Scheduling Order

Doc.168 District Court Case Management and Scheduling Order is attached to Appendix A at pgs. A29-A41. Petitioner and counsel for defendants both agreed to the contents and deadlines of Doc. 168 that was filed June 26, 2018. In fact, it was exclusively Counsel Forsythe who prepared the Case Management Report, it merely required Wrights signature when Wright went to Counsel Forsythe's office. The Discovery Deadline agreed to and established in the CASE MANAGEMENT AND SCHEDULING ORDER is December 14, 2018; and the Dispositive Motions and *Daubert* Motions deadline is January 18, 2019. *See* Appendix A pg. A29.

The Arbitrary and Intentional Discrimination of
District Court Judge Carlos Mendoza

Pursuant to the record in this cause, the evidence discloses the arbitrary and intentional discrimination of the District Court first resumed April 19, 2019. On April19, 2019 the District Court filed document 220, an ENDORSED ORDER granting document 219 Motion to extend time. Document 219 was filed April 18, 2019, *ONE DAY PRIOR*. Wright *timely* filed document 225 Memoranda in Opposition and Motion to Strike by hand delivery to the court May 1, 2019. Furthermore, April 24, 2019 Wright filed Document 222 a sworn affidavit titled MEMORANDUM. The sworn four pg. affidavit/memorandum includes the following Verbatim Quotation paragraphs:

> "6. Plaintiff's Memoranda in Opposition is due within fourteen days after being served. Defendant City of Kissimmee's Motion to Extend Dispositive Motions Deadline was filed 4/18/19 and received by Plaintiff Saturday 4/20/19. On Wednesday May 1, 2019 Plaintiff shall hand deliver to the Court Plaintiff's Memoranda in Opposition. This memorandum is hastily prepared as an initial effort and response to Counsel Forsythe's false and fraudulent Local Rule 3.01(g) certification. 7. Equal Protection of the law (and

the Court's ORDER, Doc.168 is requested by the Plaintiff. Defendants document 219 is presented for an improper purpose to harass, cause unnecessary delay and needlessly increase the cost of litigation." The eleven pg. sworn affidavit that is document 225 Memoranda in Opposition and Motion to Strike includes the following factual information in the identified paragraphs:20. Paragraph 13 of Counsel Forsythe's document 219 states: "until yesterday, counsel mistakenly interpreted..." Counsels mistaken interpretation does not constitute good cause. 21. Paragraph 14 of Counsel Forsythe's document 219 falsely Claims "...it was not possible to file a motion for summary judgment before January 18, 2019 due to delays caused by the Plaintiff..." Preceding paragraphs 6-8 and 11-18 demonstrate the falsity of this statement; particularly paragraph 13. 22. Paragraph 15 of Counsel Forsythe's document 219 is immaterial and FALSE. Counsel states "Undersigned counsel submits that now that the good faith attempt to resolve this case at mediation has failed, that undersigned counsel should be given the opportunity to file a motion for summary judgment,...".23. The first issue of the statement is that there was no good faith attempt at mediation. THE MORE IMPORTANT ISSUE OF THE STATEMENT IS: The timely filing of a motion for summary judgment is not dependent on mediation even taking place. 24. Discovery has been closed since December 14, 2018. Counsel Forsythe's failure to comply with the order of the Court does not constitute good cause and counsels Defendant City of Kissimmee's Motion to Extend Dispositive Motions Deadline violates Fed. R. Civ. P. Rule 11(b)(1). Page 11 of 11 of document 225 expressly states: "Relief Plaintiff requests the Court strike the pleadings of counsel Forsythe (Doc.219) and any and all further relief to which Plaintiff is justly entitled." *See Document 222.*

United States District Court Judge Carlos Mendoza has recklessly,

irrationally, arbitrarily and intentionally discriminated against Wright. The facts are indisputable. The judge's honesty, integrity and impartiality is impaired, a reasonable inquiry will not conclude otherwise. Judge Mendoza Ordered: "A motion to extend an established deadline normally will be denied if the motion fails to recite that: 1) *the motion is joint or unopposed*; 4) *all parties agree that any discovery conducted after the dispositive motions date established in this Order will not be available for summary judgment purposes." SEE Doc168 Page ID 901 APPENDIX A pg. A33, paragraph* 2 at start of the page. Document 219, Motion to extend time, failed to recite the requisite information. EVEN SO, as already stated, the very next day Judge Mendoza granted the motion; NOT WANTING TO BE BOTHERED WITH IGNORANT PRO SE PAUPER (even though Wright paid the filing fee in the District Court and spent thousands of dollars effecting and perfecting service of the Complaint because all of the original 15 defendants refused to waive service pursuant to rule 4(d)). Judge Mendoza's actions clearly revealed his attitude. It didn't matter what Wright had to say in Wrights Memoranda in Opposition; therefore, why bother to even wait for Wright's objection.

On April 26, 2019, exactly 100 days after the jointly agreed upon dispositive motions deadline of January 18, 2019, Respondent defendants filed *Document 224* Motion for Summary Judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. Respondent defendant's document 224 alleged Failure to state a claim upon which relief can be granted. Attached with Appendix A pgs. A42, A43 of this petiton is the affidavit of Shannon Praco. Wright timely filed *Doc.* 230 Amended Memorandum in opposition that included the following information: Verbatim quotation of numbered paragraphs: "1. Plaintiff disputes all facts set forth by Defendant City of Kissimmee in unsworn Motion for Summary Judgment On Behalf of the City of Kissimmee Defendants (Doc.224).The materials cited to support Defendant's facts cannot be presented in a form that will be admissible in evidence.2. Plaintiff presents the sworn undisputed facts under penalty of perjury and states: 3. The affidavit and declarations of Defendants are submitted in bad

faith and solely for delay. Defendants document 224 fails to comply with Fed. R. Civ. P. Rule 56 (a), (b), (c) (2), (e), but does comply with (h). 4. On June 29, 2018 Defendant's provided Defendant's Rule 26 Initial Disclosures. On pgs.1-3 the names of witnesses are identified. On pgs. 3-4 the tangible items which may be used to support claims or defenses are identified. No additional disclosures were provided by defendants. 5. Defendant's Motion for Summary Judgment On Behalf of the City of Kissimmee Defendants (Doc.224) was filed April 26, 2019 by Ian Forsythe and was not sworn to. The document is not an affidavit. *SEE* U.S.D.C. Page ID 1215. 6. Defendant City of Kissimmee's Motion for Summary Judgment On Behalf of the City of Kissimmee Defendants (Doc.224) includes an affidavit executed by Shannon Proco on April 26, 2019. *SEE* U.S.D.C. Page ID 1216 and 1217. 7. Defendant's Rule 26 Initial Disclosures does not identify Ian Forsythe or Shannon Proco as a witness who may have discoverable information to support claims or defenses. *See* paragraph (A) pgs.1-3 Defendant's Rule 26 Initial Disclosures. 8. Fed.R.Civ.P. Rule 56(c)(2) states: *Objection That a Fact Is Not Supported by Admissible Evidence.* A party may object that the material cited to support or dispute a fact cannot be presented in a form that would be admissible in evidence. 9. Fed.R.Civ.P. Rule 56(e) states: FAILING TO PROPERLY SUPPORT OR ADDRESS A FACT. If a party fails to properly support an assertion of fact or fails to properly address another party's assertion of fact as required by Rule 56(c), the court may: 10. The Discovery Deadline established in the CASE MANAGEMENT AND SCHEDULING ORDER (Doc.168) is December 14, 2018; and the Dispositive Motions and *Daubert* Motions Deadline established in the CASE MANAGEMENT AND SCHEDULING ORDER is January 18, 2019. 11. Pursuant to the Defendant's document 224 pg.15, 4th line, paragraph 36 "The Plaintiff gave a deposition in this civil case on February 5, 2019." The Plaintiff's deposition was conducted after the dispositive motions date established in the CASE MANAGEMENT AND SCHEDULING ORDER and is not available for summary judgment purposes. *SEE* U.S.D.C. Page ID 1206. 12. All

parties have agreed that any discovery conducted after the dispositive motions date established in the CASE MANAGEMENT AND SCHEDULING ORDER(Doc.168) will not be available for summary judgment purposes. *See* pg.5 paragraph 2 line 4). 13. As stated in paragraph 5, Document 224 was filed April 26, 2019. U.S.D.C. Page ID 1216, 1217 is an affidavit of Shannon Proco. As previously stated Shannon Proco is not identified as a witness on Defendant's Rule 26 Initial Disclosures. The affidavit of Shannon Proco is not identified as a tangible item which may be used to support claims or defenses. The affidavit of Shannon Proco was executed on April 26, 2019. *See* U.S.D.C. Page ID 1217, 6th line. 14. The affidavit and documents of Shannon Proco were produced after the dispositive motions date established in the CASE MANAGEMENT AND SCHEDULING ORDER and are not available for summary judgment purposes. *See* paragraph 10. 15. The entire document 224 is null and void. Plaintiff objects on the grounds that the facts of Defendant's document 224 *are Not Supported by Admissible Evidence.* 16. Fed.R.Civ.P. Rule 16(f)(1)(C) provides for Sanctions if a party or its attorney fails to obey a scheduling or other pretrial order. 18. Controlling Supreme Court precedent is Smith v. Wade 461 U.S. 30(1983): "Punitive damages are available in a proper case under 1983." Furthermore, on pg.42 "The Court further explained the standard for punitive damages in Milwaukee & St. Paul R. Co. v. Arms, 91 U.S. 489 (1876), a diversity railroad collision case: "Redress commensurate to such [personal] injuries should be afforded. In ascertaining its extent, the jury may consider all the facts which relate to the wrongful act of the defendant, and its consequences to the plaintiff; but they are not at liberty to go farther, unless it was done willfully, or was the result of that reckless indifference to the rights of others which is equivalent to an intentional violation of them. In that case, the jury are authorized, for the sake of public example, to give such additional damages as the circumstances require. The tort is aggravated by the evil motive, and on this rests

the rule of exemplary damages." Id., at 493." The preceding verbatim quotation is concluded! *No reply was filed by the Defendants.* Federal Rules of Civil Procedure Rule 26 requires "Duty to Disclose; General Provisions Governing Discovery (a) Required Disclosures. (1) *Initial Disclosure.* (A) *In General.* Except as exempted by Rule 26(a)(1)(B) or as otherwise stipulated or ordered by the court, a party must, without awaiting a discovery request, provide to the other parties:
(i) the name and, if known, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment;
(ii) a copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment;

Appendix A pgs. A42 and A43 are unequivocal Defendant Discovery violations pursuant to Rule 26(a)(1)(A)(i) and 26(a)(1)(A)(ii). Furthermore, Appendix A pg. A32 pg. 4 of 16 of the the Case Management and Scheduling Order states the following verbatim quotation: "the Court expects that a party alleging that a pleading fails to state a claim will confer with counsel for the opposing party before moving to dismiss and will agree to an order permitting the filing of a curative amended pleading. Fed. R. Civ. P.15."

Thereafter April 26, 2019, on May 17, 2019, District Court Judge Mendoza filed Document 231 which modified document 168, the Case Management and Scheduling Order. *See* Appendix A pgs. A27, A28. Verbatim Quotation of document 231, ORDER. "THIS CAUSE is before the Court upon *sua sponte* review. On April 19 2019, the Court granted Defendants, Motion to Extend Dispositive Motions Deadline and set the deadline for May 1, 2019. (Apr. 19 2019 Order, Doc.220). The remaining deadlines in this case must also be amended to account for the extension of the dispositive motions deadline. Accordingly, it is ORDERED and ADJUDGED

that the Case Management and Scheduling Order (Doc. 168) will be amended as follows: 1. All other Motions Including Motions in Limine: August 1, 2019 – 2. Meeting in Person to Prepare Joint Final Pretrial Statement: September 3, 2019 – 3. Joint Final Pretrial Statement: September 13, 2019 – 4. Trial Status Conference: September 19, 2019 at 10:00 A.M. – 5. Trial Term Begins: October 1, 2019."

Verbatim Quotations of Document 168 *Appendix* A pgs. A29-A41 include the following: A32 paragraph "B. 1. Dispositive Motions Deadline and Trial Not Extended – Motions to extend the dispositive motions deadline or to continue the trial are generally denied. The Court cannot extend a dispositive motions deadline to the eve of trial." A33 paragraph "2. Extensions of Other Deadlines Disfavored – A motion to extend an established deadline normally will be denied if the motion fails to recite that: 3) all parties agree that the extension will not affect the dispositive motions deadline and trial date. 5) no party will use the granting of the extension in support of a motion to extend another date or deadline."

Observation and recitation of the relevant Law and Rules of the Supreme Court reveals the following concerning the defense of "failure to state a claim upon which relief can be granted." Rule 8(b)(1)(A), (B). (1) *In General.* In responding to a pleading, a party must: (A) state in short and plain terms its defenses to each claim asserted against it; and (B) admit or deny the allegations asserted against it by an opposing party. Rules 12(b) and 12(h) verbatim quotations were previously expressed on pg. 8 of this petition; Wright presents Rule 12 (c) after Rule 12(h) which expressly states: "Waiving and Preserving Certain Defenses (2) *When to Raise Others.* Failure to state a claim upon which relief can be granted, to join a person required by Rule 19(b), or to state a legal defense to a claim may be raised:(A) in any pleading allowed or ordered under Rule 7(a);(B) by a motion under Rule 12(c); or(C) at trial." Rule 12(c)expressly states "(c) Motion for Judgment on the Pleadings. After the pleadings are closed—but early enough not to delay trial—a party may move for judgment on the pleadings." The operative phrase is but early enough not to delay trial. As already stated on pg. 12 of this petition "On April 26, 2019, exactly 100 days after the jointly agreed upon dispositive motions deadline of January 18, 2019, Respondent

defendants filed *Document 224* Motion for Summary Judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. Respondent defendant's document 224 alleged Failure to state a claim upon which relief can be granted." Also, as just stated on previous pg.15, on May 17, 2019, District Court Judge Mendoza modified document 168, Case Management and Scheduling Order. Pursuant to the Rules of Procedure promulgated by the Supreme Court the only proper method of raising the defense of Failure to state a claim upon which relief can be granted is by motion under Rule 12, either 12(b) or 12(c), or at trial. Rule 16(b)(4) expressly states in short and plain terms "*Modifying a Schedule.* A schedule may be modified only for good cause and with the judge's consent. The operative phrase is A schedule may be modified only for good cause. The pleadings of the record in this case unequivocally demonstrate that no good cause did exist, ever existed or could ever exist. The timely lack of due diligence by defendants does not constitute "good cause". Document 231, the ORDER of District Court Judge Mendoza is demonstration of the reckless animus and arbitrary and intentional discrimination of District Court Judge Carlos Mendoza. Judge Mendoza does not respect nor comply with the law. The appearance of impropriety occurs when reasonable minds, with knowledge of all the relevant circumstances disclosed by a reasonable inquiry, would conclude that the judge's honesty, integrity, impartiality, temperament, or fitness to serve as a judge is impaired. The professional conduct of Judge Mendoza is reckless, improper, inappropriate and irresponsible. Additional instance and demonstrations of the arbitrary and intentional discrimination of Judge Mendoza are forthcoming.

Federal Rules of Evidence Rule 201

Judicial Notice of Adjudicative Facts

Pursuant to Federal Rules of Evidence Rule 201(c) (2) that states: "(c) Taking Notice. The court: (2) must take judicial notice if a party requests it and the court is supplied with the necessary information."

Wright filed 4 distinct Motions for Judicial Notice commencing April24, 2019 document 223; May1, 2019 document 226; July17, 2019 document 235; September

24, 2019 document 246. All 4 Motions for Judicial Notice were sworn to. Defendants did not file Memoranda in Opposition to any of the 4 affidavits. United States District Court trial judge Carlos E. Mendoza did not rule on any of the 4 motions. Copies of the documents are provided in the appendix and are precisely quoted forthwith.

Provided in Appendix A is Doc.223 Plaintiff's Motion for Judicial Notice pages A108-A113. The following verbatim quotations are excerpted from document 223. Pg. A113 "ELEVENTH CIRCUIT PATTERN JURY INSTRUCTIONS (2019)TRIAL INSTRUCTION 2.5 "The rules of evidence allow me to accept facts that no one can reasonably dispute. The law calls this "judicial notice." I've accepted [state the fact that the court has judicially noticed] as proved even though no one introduced evidence to prove it. You must accept it as true for this case." Take judicial notice of the deprivation of Plaintiff's 6th Amendment Rights by Defendants who were acting under color of state law. The Court is supplied with the necessary information. Also, take judicial notice of the deprivation of Plaintiff's Right to due process and equal protection of the law. The 14th Amendment Rights of Plaintiff." *Appendix* pg.A111 "8. The Adjudicative Facts requested to be Judicially Noticed are fundamental principles of Constitutional Law as recognized by the United States Supreme Court and Florida Supreme Court." *Appendix* pg. A109 "2. Plaintiff has asserted multiple deprivation[s]of due process as well as multiple deprivations of rights secured by the Sixth Amendment of the United States Constitution. Specifically, (1), the Right to be informed of the nature and cause of the accusation, and (2), to have the [effective] Assistance of Counsel for his defense. "4. Adjudicative Facts requested to be noticed: multiple deprivations of Sixth Amendment Rights as identified in paragraph 2. Furthermore, it is a basic tenet of constitutional law that due process is violated when an individual is convicted of a crime not charged in the charging instrument. *See* State v. Gray, 435 So. 2d 816, 818(Fla. 1983)".Memorandum of Law Almendarez–Torres v. United States, 523 US 224; United States v. Resendiz-Ponce, 549 US 102; Strickland v. Washington, 466 US 668 Polite v. State, 973 So.2d

1107,*1108,*1114,15 (Fla. 2007) State v. Dye, 346 So. 2d 538,*541 (Fla. 1977)State v. Gray, 435 So. 2d 816, 818 (Fla. 1983) The preceding verbatim quotation is ended.

Appendix A Doc.226 Plaintiff's Second Motion for Judicial Notice pages A102-A107. The following verbatim quotations are excerpted from document 226. A103 "2. Defense Counsel Ian D. Forsythe refuses to conduct himself in a professional manner. Mr. Forsythe refuses to comply with the CASE MANAGEMENT AND SCHEDULING ORDER. On April 18, 2019 Plaintiff mailed for filing via U.S.P.S. Plaintiff's Motion for Sanctions (Doc.221) On April 22, 2019 Plaintiff mailed for Filing via U.S.P.S MEMORANDUM (Doc.222) On April 23, 2019 Plaintiff mailed for filing via U.S.P.S. Plaintiff's Motion for Judicial Notice. (Doc.223)3. Defense Counsel refuses to stipulate to as many facts and issues as possible in order to assist the Court. Defense Counsel Forsythe refuses to engage in "an active and substantial effort to stipulate at length and in detail as to agreed facts and law, and to limit , narrow, and simplify the issues of fact and law that remain contested.4. Defense Counsel refuses to comply with Fed.R.Civ.P.1; securing the just, speedy, and inexpensive determination of the action." Pg. A104 "6. Complaint (Doc.1) was served upon perjurer Defendant Felix Echevarria on June 8, 2017;(Doc.67). No response had been served within the time allowed by law nor had defendant Echevarria sought additional time within which to respond. Default entered against defendant Echevarria on June 30, 2017. On July 12, 2017 Plaintiff filed Amended Motion for Clerk's Default (Doc.85). On July 13, 2017 the Court issued an Amended Order (Doc.89) directing the Clerk to consider the Amended Motion for Entry ofClerk's Default (pg.9,#7 of Doc.89). On July 13, 2017 ENTRY OF DEFAULT was entered pursuant to Fed.R.Civ.P. Rule 55(a)." 8. The effect of Defendant Felix Echevarria's failure to Deny [A104, A105] the allegations of Plaintiff's Complaint (Doc.1) is: Defendant Felix Echevarria admits to all of the allegations of Document 1; violation of petitioners 4th,5th,6th,8th, and 14th Amendment Federal Constitutional Rights. *See* Fed.R.Civ.P. Rule 8(b) (6)." 11. Federal Rules of Civil

Procedure RULE 1 SCOPE AND PURPOSE States: "They should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding." 12. Defendants have no interest in a quality trial. Their only interest is subverting and preventing and perverting justice. There is no interest in assisting the Court. The only interest is the continued deprivation of due process and equal protection. *Appendix* pg. A107 "Take judicial notice of the adjudicative fact of default by Defendant Felix Echevarria and the effect of failing to deny the allegations of Plaintiff as stated in Document 1, the violation and deprivation of Plaintiff's 4th, 5th, 6th, 8th and 14th Amendment Constitutional Rights. The Court is supplied with the necessary information. Additionally, take judicial notice of adjudicative facts that defendant law enforcement officials were acting under color of state law." The preceding verbatim quotation is concluded!

Appendix A Doc. 235 pages A88-A91 is Plaintiff's Third Motion for Judicial Notice. The following verbatim quotations are excerpted from document 235. "1) On October 4, 2014 at approximately 22:14 the bicycle of Plaintiff(and Plaintiff) was seized without a warrant. 2) The seizure was conducted by the Kissimmee police officer defendants. 3) Defendant's Ian Downing, Felix Echevarria, Brandon Layne and Bradley Wheeler filed reports of the incident. 4) The reports filed by the defendants fail to identify the disposition of the bicycle. The bicycle of Plaintiff was not placed into evidence. The bicycle of Plaintiff was not returned to Plaintiff. Plaintiff's bicycle was essential evidence for disproving, rebutting and debunking Defendant Echevarria's entire false narrative and establishing that the bicycle had been hit by an automobile. 5) Plaintiff's SECOND AMENDED COMPLAINT (Doc.157) paragraph 15 at the top of pg. 15 asserts "UNKNOWN KPD OFFICERS STOLE THE BICYCLE (PROPERTY) OF PLAINTIFF- AND DID NOT PLACE IT INTO EVIDENCE. WHY?" 6) Plaintiff's document 171 PLEADING SPECIAL MATTERS pursuant to Federal Rules of Civil Procedure Rule 9(b) "Fraud or

Mistake ..." asserts at the start of pg.4 "No Chain of Custody record of the bicycle of Plaintiff was provided by counsel for defendants in Defendant's Rule 26 Initial Disclosures. The Discovery materials of Mr. Forsythe, counsel for defendants, are identical to the discovery materials provided by former defendant and witness Designated Assistant State Attorney Benjamin David Baird on Nov. [A90] 18 of 2014. The point is: the security of Plaintiff's person and effects/ property-bicycle, was violated. The larger point is: Plaintiff's bicycle had lights and was disappeared. The disappearance was unconstitutional, calculated, malicious and fraudulent."7) Plaintiff filed document 217 SUMMARY of Material Issues for Pre Trial Mediation where in second paragraph pg.6of8 "Plaintiff asserts an objective reasonableness standard is appropriate in determination of the warrantless "seizure"(theft) of Defendants bicycle. Plaintiff further asserts the intention of all Defendant's is obstruction of justice. Obfuscation and fraud is the cumulative purpose and objective of the Defendant's false narratives. It is attempted cover-up of the FACT of Defendant Mario Cardenas vehicle colliding with Plaintiff's bicycle."

8) All Defendant's have violated Florida statute 918.13 Tampering with or fabricating physical evidence.—

(1) No person, knowing that a criminal trial or proceeding or an investigation by a duly constituted prosecuting authority, law enforcement agency, grand jury or legislative committee of this state is pending or is about to be instituted, shall:

(a) Alter, destroy, conceal, or remove any record, document, or thing with the purpose to impair its verity or availability in such proceeding or investigation; or

(b) Make, present, or use any record, document, or thing, knowing it to be false.

9) Defendant Felix Echevarria's pre-textual probable cause for allegedly attempting to seize bicyclist Plaintiff: the bicycle did not have lights. Plaintiff admits the bicycle did have lights and that the bicycle was destroyed, concealed or removed for the purpose of impairing its verity or availability. Conclusive Adjudicative Fact to be Noticed 10) The Court is supplied with the necessary

information as stated herein and previously. Plaintiff has been subjected to the deprivation of Rights secured under the 4th and 14th Amendments of the Constitution. Defendants are eligible for both compensatory and punitive damages." The preceding verbatim quotation is concluded!

Appendix A Doc.246 Plaintiff's Fourth Motion for Judicial Notice pages A75-A78. The following verbatim quotations are excerpted from document 246. Beginning *Appendix* A75.

"Plaintiff asserts equal protection of the law.

UNDISPUTED FACTS

1) Pursuant to Federal Rules of Evidence Rule 201(d): "The court may take judicial notice at any stage of the proceeding". 2) On September 13, 2019 Plaintiff filed PLAINTIFF TRIAL BRIEF (Doc.240) on the issue of Excessive Force. The brief was a sworn affidavit inclusive of relevant information regarding pertinent information on the issue of excessive force. [*Appendix* A76] 3) Defendants have declined to file a Trial Brief. 4) Also on September 13, 2019 Defense Counsel Forsythe filed Joint Final Pretrial Statement [*Appendix* A83-A87] that had been signed by Plaintiff and Counsel Forsythe. 5) On September 12, 2019 at approximately 3:15PM, at the office of Mr. Forsythe, Plaintiff and Defense Counsel signed the agreed upon Joint Final Pretrial Statement, "which will control the course of the trial". 6) The pertinent, relevant and material agreed upon FACTS of the Joint Final Pretrial Statement are in paragraph 9-2; Defendant's provide a concise statement of facts that are admitted "The City of Kissimmee officers involved in this case were acting under color of law". And paragraph 3B. Defendant's Statement: "The City of Kissimmee denies that its law enforcement officers used reasonable force during the Plaintiff's arrest". 7) There are two essential elements in a suit under 42 U.S.C. § 1983; (1) Defendants were acting under color of state law; (2) Plaintiff was denied a Right secured under the Constitution. 8) Defendant's and Plaintiff agree that Plaintiff was subjected to excessive force. Defendant's and Plaintiff agree that Defendants were acting under

color of law. 9) Paragraph 11 of the Joint Final Pretrial Statement states:A concise statement of those issues of fact which remain to be litigated. Subparagraph A. Defendants' Statement of issues: 2. Assuming a constitutional violation occurred, whether the Plaintiff suffered any damages, and, if so, what nature and extent. [*Appendix* A77] 10) Defendants' assumption of a constitutional violation is agreed with by Plaintiff who has actual personal memory and experience of the constitutional violation[s]. Plaintiff has identified the nature and extent of his damages. The wrongful acts of the defendants' and the consequences to the Plaintiff have been unequivocally and irrefutably identified. 11) Plaintiff has discharged his burden of validating the required elements of his complaint. The only jury issue is the amount of monetary compensatory and punitive damages. Any other jury issues are moot. Conclusive Adjudicative Facts Plaintiff requests the Court take Judicial Notice that Defendant's admit that Defendants were acting under color of law; and, that The City of Kissimmee denies that its law enforcement officers used reasonable force during the Plaintiff's arrest - excessive force is admitted." The preceding verbatim quotation is concluded!

Respondent Defendants filed no Memoranda in Opposition to any of Wrights four Motion[s] for Judicial Notice. Wright has provided the District Court case docket for this proceeding in Appendix A pgs. A44 – A74. Pursuant to Federal Rules of Evidence Rule 201[(c)(2) and (e)], Judicial Notice of Adjudicative Facts;"(c) Taking Notice. The court: (2) must take judicial notice if a party requests it and the court is supplied with the necessary information. (e) Opportunity to be heard. On timely request, a party is entitled to be heard on the propriety of taking judicial notice and the nature of the fact to be noticed. If the court takes judicial notice before notifying a party, the party, on request, is still entitled to be heard."

Rule 9. Pleading Special Matters

On August 6, 2018 Wright filed Document 171 titled PLEADING SPECIAL

MATTERS pursuant to Fed. R. Civ. P. Rule 9(b) Fraud or Mistake. Commencing pg. 6 thru pg. 14 of 22 Document 171, a verbatim quotation .

SUMMARIZATION OF THE CIRCUMSTSNCES OF PARTICULARITY CONSTITUTING FRAUD

"Kissimmee Police Department employee, undercover perjurer, detective Felix Echevarria concocted numerous material facts which are/were deliberate and reckless departures from reality- in an effort to cover up, justify, and rationalize his associates unlawful and unconstitutional conduct -which resulted in Defendant Wright's broken nose." Plaintiff filed Document 129 DEFINITE STATEMENT , pursuant to the request of defendants Mario Cardenas, Ian Downing, Brandon Layne, Michael B. Strickland and Bradley A. Wheeler; on pg. 2 of 6 second paragraph, is "Plaintiff attaches his medical records and STATES: the HPI-Motor Vehicle Crash attached hereto is what this case is all about; a KPD police officer crashed his vehicle into bicyclist Plaintiff; defendant police officers have tried to cover it up. Document 129 also had ATTACHMENTS of June 11, 2017 correspondence David McClain/with medical records, Florida Bar Complaint, Correspondence to F.B.I., Motion to Recuse- Defendant Judge A. James Craner. Plaintiff also filed Document 130, an amendment to DEFINITE STATEMENT, pursuant to the request of defendants Mario Cardenas, Ian Downing, Brandon Layne, Michael B. Strickland and Bradley A. Wheeler; in which also was included relevant data/information concerning the circumstances of particularity constituting fraud. *SEE* ATTACHMENTS : CIVIL DOCKET FOR CASE #: 6:14-cv-01653-GKS-

GJK, United States Constitutional Violations; 4 pgs. Factual Memorandum and State Discovery exhibit; 10 pgs. Letters to Mr. Ashton; 7 pgs. Letters to General Counsel; 4 pgs. Letter Mr. McClain; 1 pg. Letter Mr. Forsythe; 1 pg. The judgment and conviction of Plaintiff in case No.:2014-CF-003651 is a fraud because counts 1 and 2 of the charging document, an information, fail to allege an essential element as explained by the Florida Supreme Court in POLITE v. STATE 973 So.2d 1107 (2007)(PLAINTIFF PROVIDES COPY OF THE FLORIDA SUPREME COURT'S DECISION IN POLITE ON PAGES 15-18); and ALSO, is based upon the perjured probable cause arrest affidavit of perjurer Felix Echevarria. Defendant Echevarria states in his perjured probable cause affidavit that suspected drug paraphernalia was found on search of plaintiff "incident to a lawful arrest. Plaintiff states "there was no lawful arrest of Plaintiff at approximately 22:14 on October 4, 2014." The seizure of Plaintiff and Plaintiff's bicycle at the location of the Salvation Army retail Family Store right next door to a Staples at 101 West Vine Street, Kissimmee, Fl. was a violation of the Fourth Amendment of the United States Constitution. Furthermore, Defendant Echevarria asserts in his perjured probable cause affidavit that he was not present for the seizure of Plaintiff and that Plaintiff was in handcuff's when Defendant Echevarria arrived on scene where Plaintiff was seized. Plaintiff states that the only interaction of Plaintiff and Defendant Echevarria was the transportation of handcuffed Plaintiff from the hospital to the jail. Defendant Echevarria never searched Plaintiff "incident to a lawful arrest." OR OTHERWISE; (PLAINTIFF WAS NEVER SEARCHED BY DEFENDANT ECHEVARRIA)

Plaintiff was seized by defendants Layne, Wheeler and Cardenas and handcuffed and searched by defendants Layne and Wheeler. Data and information concerning the unconstitutional seizure of Plaintiff and Plaintiff's bicycle is provided by the sworn affidavits of Brandon Layne and Bradley A. Wheeler. *See* Plaintiff's Second Amended Complaint paragraph 6, pg. 8of21 and paragraph 8, pg. 11of21. Defendant Wheeler's affidavit asserts "Once Wright was placed in handcuffs, I aided in lifting him to his feet and brushing him off. I then stayed with wright until he was seen by the Kissimmee Fire Department. Wright was then transported from the scene to the hospital." Plaintiff attaches 3 pg. Kissimmee Fire Department documentation (pgs.19-21) concerning the transportation of Plaintiff to the hospital. The documentation asserts "KPD rider due to pt. being under arrest." The documentation asserts the KPD rider was M. Cardenas. Plaintiff asserts the KPD rider was Defendant Mario Cardenas. ADDITIONAL PERJURED AND FRAUDULENT STATEMENTS OF DEFENDANT FELIX ECHEVARRIA: Perjurer defendant Felix Echevarria asserts in the perjured probable cause affidavit that after chasing Plaintiff (it is noted that Echevarria first claims to be in an unmarked KPD vehicle and because Plaintiff was riding bicycle very fast, Echevarria abandoned his vehicle and commenced a foot pursuit) on foot, Echevarria was able to confront Plaintiff, identify himself as a police officer, and that plaintiff then abandoned his bicycle and approached undercover officer Echevarria, swung a fist at Echevarria who avoided the punch and grabbed Wright and took Wright down. Ecvhevarria further asserts Plaintiff disregarded his commands, ceased to struggle

with Echevarria, then got back on his bicycle and rode away. Plaintiff certifies that Defendant Echevarria's false statements and false assertion[s] are complete fabrications, totally devoid of any basis in reality; Plaintiff did not abandon his bicycle and participate in a violent confrontation; (alleged fist swinging), and then get back on his bicycle and ride away from alleged altercation. On page 15of21 of Plaintiff's Second Amended Complaint paragraph #16- Kissimmee Police Officer Luisbel Fundora, ID 655, filed a sworn SUPPLEMENTAL NARRATIVE about three hours after 22:14 10/04/14. Officer Fundora is not a defendant in this cause. Officer Fundora states that officer Fundora was an eye-witness to the persons of (Plaintiff) Wright and (Defendant) Echevarria at 22:12 10/04/14. Officer Fundora states " On 10/04/2014 at 22:12 hours, I, Officer L. Fundora, ID 655 was patrolling the area of the Staples located at 101 West Vine Street. I heard Detective Echevarria ID 565 call out a foot pursuit in the area of Main Street and Cypress Street. As soon as I heard Detective Echevarria call out the foot pursuit, I could see Detective Echevarria running west on Cypress Street after a white male, Michael Wright. Wright was running and pushing his bicycle at the same time. Wright then crossed Main Street..." PERJURED AND FRAUDULENT STATEMENTS OF DEFENDANTS FELIX ECHEVARRIA AND IAN DOWNING. All data and information contained in the documents filed by Defendant Ian Downing is perjured and fraudulent because the documents purport to demonstrate that Plaintiff Wright was riding his bicycle, Plaintiff crashed his bicycle into a marked KPD vehicle operated by Defendant Michael B. Strickland causing property damage greater than

$50.00 and then fled the scene of the alleged accident without exchanging information. Defendant Downing states that Defendant Downing was not witness to any of the alleged events in the fraudulent documents. Defendant Downing's Perjured documents are based entirely on false HEARSAY allegedly alleged by perjurer Defendant Echevarria and liar defendant Michael B. Strickland who did not submit any sworn affidavit. The perjured documents actually state that Plaintiff rode his bicycle directly into the front end of Defendant Strickland's vehicle and (that Plaintiff did not fall off the bike) that Plaintiff continued riding bicycle away from the location of the alleged criminal violation. The perjured documents filed by perjurer Defendants Downing and Echevarria are not precisely clear or consistent on the matter of whether or not the vehicle allegedly operated by Defendant Michael B. Strickland was moving or parked. The true and correct information filed by Defendant Downing should lawfully have been a Florida Traffic Crash Report Long Form indicating the responsible driver of the automobile as Mario Cardenas and the bicyclist victim as Michael J. Wright. The only automobile/bicycle crash Plaintiff was involved in at approximately 22;14 October 4, 2014 was when the unmarked KPD automobile operated by Mario Cardenas crashed into bicyclist Plaintiff. Although defendant Downing asserts that Downing arrested Plaintiff, Defendant Downing never spoke to or with Plaintiff. The perjured documents filed by Defendant Echevarria also assert that Plaintiff did ride his bicycle (crashed his bicycle) into the front end of Defendant Michael B. Strickland's patrol vehicle, "and (that Plaintiff did not fall off the bike) that Plaintiff continued riding bicycle away

from the location of the alleged criminal violation. Defendant Echevarria wrote the narrative "sequentially arranged" to describe Plaintiff's actions immediately following Echevarria's false statements asserting Plaintiff and Echevarria had engaged in "hand to hand" fighting. HOWEVER, UNKNOWN TO PERJURERS DOWNING AND ECHEVARRIA was the fact that Liusbel Fundora was an eyewitness to the persons of Michael Wright and Felix Echevarria. Kissimmee Police Officer Liusbel Fundora, ID 655, filed a sworn SUPPLEMENTAL NARRATIVE about three hours after 22:14 of 10/04/14. Officer Fundora is not a defendant in this cause. Officer Fundora states that officer Fundora was an eye-witness to the persons of (Plaintiff) Wright and (Defendant) Echevarria at 22:12 10/04/14. On pg. 16of21 of the Second Amended Complaint is paragraph 17; "#17- The sworn eyewitness report of Officer Fundora exculpates & contradicts the reports of Defendants Downing and Echevarria." The Report of Liusbel Fundora fully, completely and undeniably exonerates and exculpates Plaintiff of the false narratives of Defendant's Downing and Echevarria. CONCLUSIONS Plaintiff has asserted in his SECOND AMENDED COMPLAINT FOR VIOLATION OF CIVIL RIGHTS that Defendants have violated Plaintiffs 6th Amendment Rights (as well as Plaintiffs 4th,5th,8th and 14th Amendment Rights). The 6th Amendment states: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the

witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence." The perjured and fraudulent probable cause affidavit filed by perjurer Defendant Felix Echevarria was the basis for filing a false and fraudulent citation in ticket #A0G2VEP in the County Court in Case No. 2014 TR059134, and false, fraudulent and malicious criminal charges in Case No. 2014CF003651. The judgment and conviction of Plaintiff in Case No. 2014CF003651 is fraudulent because the defective information that was the basis of the conviction failed to inform Plaintiff of the nature and cause of the accusation (the essential elements). Plaintiff has filed copy of the actual defective information in the record of this cause, and, Plaintiff, as stated on pages 7 and 8 of this document, files copy of the Florida Supreme Court Decision in POLITE v. STATE 973 So.2d 1107(2007). Plaintiff is actually innocent of all identified false and malicious assertions of the perjurer defendants who have caused and are responsible for the IRREPARABLE HARM done to Plaintiff. The bicycle of Plaintiff had lights, Plaintiff did not crash his bicycle (causing damage > than $50.00) into the KPD patrol car operated by Defendant Michael B. Strickland, no altercation between Plaintiff and Defendant Felix Echevarria occurred and Plaintiff did not possess any drug paraphernalia. Verbatim quotation of document171 is concluded.

Appendix C contains Related Case documents of cases 2014 CT 003885, 2014 TR059134 and 49-2014-CF-003651. The materiality of the documents is presented via sworn factual statement description of the material.

On September 8, 2014, 26 days prior to the excessive force inflicted on Wright as Wright was on the ground as a result of the impact of Defendant Cardenas

automobile colliding into bicyclist Wright, the 11th Circuit decided *Saunders v. Duke*, 766 F.3d 1262, 1266 (11th Cir. 2014); The United States District Court Middle District of Florida (Orlando) was the trial court; counsel for appellees included Pamela Bondi and Ian D. Forsythe. Pamela Bondi is former Attorney General in the state of Florida and was Respondent in case #: 6:14 - cv - 01653 - GKS - GJK *Appendix* B; Ian D. Forsythe is Counsel of Record for respondents in the District Court and Appellate Court.

FACTS of ***Saunders v. Duke*, 766 F.3d 1262, 1266 (11th Cir. 2014)**

"We accept the factual allegations in the complaint as true and view them in the light most favorable to Mr. Saunders. See Butler v. Sheriff of Palm Beach Cnty., 685 F.3d 1261, 1265 (11th Cir.2012). We also construe the complaint liberally because it was filed pro se. See Boxer X v. Harris, 437 F.3d 1107, 1110 (11th Cir.2006). We have repeatedly ruled that a police officer violates the Fourth Amendment, and is denied qualified immunity, if he or she uses gratuitous and excessive force against a suspect who is under control, not resisting, and obeying commands. *See, e.g., Priester v. City of Riviera Beach, Florida,* 208 F. 3d 919, 927(11th Cir. 2000); *Slicker v. Jackson,* 215 F. 3d 1225, 1233 (11th Cir.2000); *Lee v. Ferraro,* 284 F. 3d 1188, 1198 (11th Cir.2002). "[A] handcuffed, non-resisting [suspect's] right to be free from excessive force was clearly established [by] February 2002," *Hadley,*526 F. 3d. at 1333, or about six years before the alleged incident in this case occurred. Pgs.1270, 71"It is true that documents attached to a complaint or incorporated in the complaint by reference can generally be considered by a federal court in ruling on a motion to dismiss under Rule 12(b)(6). *See Tellabs, Inc. v. Makor Issues & Rights, Ltd.,*551U.S. 308, 322,127 S.Ct.2499, 168 L.Ed.2d 179(2007). Here, however, Mr. Saunders expressly alleged in his complaint that the police reports that were submitted failed to properly and correctly document the excessive force inflicted on him and the injuries he suffered. Where a civil rights

plaintiff attaches a police report to his complaint and alleges that it is false, as Mr. Saunders did, the contents of the report cannot be considered as true for purposes of ruling on a motion to dismiss. Otherwise, officers sued under § 1983 could just attach police reports referenced in a civil rights complaint to their motions to dismiss and ask courts to consider the contents of those reports even if they contradicted the allegations of the complaint. And that, as we have said, would be improper. *See Fuller v. SunTrust Banks, Inc.*, 744 F.3d 685, 695–96 (11th Cir.2014)("In general, we do not consider anything beyond the face of the complaint and documents attached thereto when analyzing a motion to dismiss [under Rule 12(b)(6)].

Judge Mendoza has violated relevant decisions of this Court as well as this Courts rules of procedure and rules of evidence. Judge Mendoza has also made reckless false statements in the record to which Wright shall specifically address. District Court Judge Carlos Mendoza despises TRUTH. To Judge Mendoza, factual Truth is to be disdained, disfavored and scorned. "Reasonable minds, with knowledge of all the relevant circumstances disclosed by a reasonable inquiry, would conclude that the judge's honesty, integrity, impartiality, temperament, or fitness to serve as a judge is impaired. Federal Rules of Evidence Rule 102. Purpose states: "These rules should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination." Judge Mendoza rejects ascertaining the truth and securing a just determination. Appendix A contains 4 Orders of Judge Mendoza; *Doc.* 255 pgs. A9-A17, *Doc.* 236 pgs. A18-A26, *Doc.* 231 A27, A28 and *Doc.* 168. On following pg. 33 of this petition is pg. A16 of ***Document 255***; Wright will specifically address Judge Mendoza's lies pg. 34.

see also Scott v. Harris, 550 U.S. 372, 383 (2007) (noting that in order to determine whether excessive force was used "we must . . . slosh our way through the factbound morass of 'reasonableness'"). Nevertheless, the Eleventh Circuit distilled three guiding factors from *Graham* to assist in balancing the analysis: "(i) the severity of the crime at issue, (ii) whether the suspect poses an immediate threat to the safety of the officers or others, and (iii) whether he is actively resisting arrest or attempting to evade arrest by flight." *Steen v. City of Pensacola*, 809 F. Supp. 2d 1342, 1349–50 (N.D. Fla. 2011) (citing *Brown v. City of Huntsville*, 608 F.3d 724, 738 (11th Cir. 2010)).

Considering the evidence presented, all of the *Steen* factors heavily balance in favor of the individual KPD officers in this case. 809 F. Supp. 2d at 1349–50. Plaintiff was actively fleeing from a law enforcement officer. When Officer Echevarria caught up to Plaintiff, Plaintiff charged at Echevarria with a closed fist. During Echevarria's attempt to get Plaintiff under control, Plaintiff struck Echevarria in the head. At this point, Plaintiff had committed serious crimes, was an immediate threat to law enforcement officers, and was actively resisting arrest and attempting to evade arrest by flight. After Plaintiff got away from Echevarria, Plaintiff continued his attempts to evade all of the KPD officers now in pursuit. Officer Strickland attempted to head off Plaintiff by blocking Plaintiff's path with his vehicle. Plaintiff again attempted to evade officers, at which time he hit Strickland's vehicle. When yet a third set of KPD officers, Officers Layne and Cardenas, attempted to apprehend Plaintiff, he still continued to resist. It took three officers—Layne, Cardenas, and Wheeler—to finally get control of Plaintiff and get him in handcuffs.

Considering these undisputed material facts and the factors set forth by the Eleventh Circuit, this Court finds that all of the KPD officers' actions in attempting to apprehend Plaintiff were objectively reasonable. *See Terrell*, 668 F.3d at 1251. None of the KPD officers employed excessive force considering the attendant circumstances, *id.*, and Plaintiff has put forth no evidence

Judge Mendoza states: "Considering the evidence presented, ". The Respondents

presented no evidence. As Wright explained on previous pgs. 12-14 Judge Mendozas alleged "evidence" are the documents contained in Respondent Defendant City of Kissimmee's Motion for Summary Judgment On Behalf of the City of Kissimmee Defendants (Doc.224); an affidavit executed by Shannon Proco on April 26, 2019 *Appendix* A42,A43. Defendant's Rule 26 Initial Disclosures does not identify Ian Forsythe or Shannon Proco as a witness who may have discoverable information to support claims or defenses. Fed.R.Civ.P. Rule 56(c)(2) states: *Objection That a Fact Is Not Supported by Admissible Evidence.* A party may object that the material cited to support or dispute a fact cannot be presented in a form that would be admissible in evidence. Additionally, and just as material as Rule 56(c)(2), Federal Rules of Evidence Rule 802 The Rule Against Hearsay "Hearsay is not admissible unless any of the following provides otherwise:" a federal statute; these rules; or other rules prescribed by the Supreme Court. Rule 801. Definitions That Apply to This Article; Exclusions from Hearsay The following definitions apply under this article:

(a) Statement. "Statement" means a person's oral assertion, written assertion, or nonverbal conduct, if the person intended it as an assertion.

(b) Declarant. "Declarant" means the person who made the statement.

(c) Hearsay. "Hearsay" means a statement that:

(1) the declarant does not make while testifying at the current trial or hearing; and

(2) a party offers in evidence to prove the truth of the matter asserted in the statement.

F.R.E. Rules 101, 1101. State "Applicability of the Rules (a) To Courts and Judges." Judge Mendoza states: "Plaintiff was actively fleeing from a law enforcement officer". Lie. Huge Lie. Wright was riding his bicycle and had no knowledge that he was being stalked, surveilled or pursued by **ANYBODY**. "When Officer Echevarria caught up to Plaintiff,". Another Huge Lie. As stated on pg. 21 of this petition "Defendant Felix Echevarria's pre-textual probable cause for allegedly attempting to seize bicyclist Plaintiff..." The last 2 printed lines of pg. 25 of this petition declare "Plaintiff states that the only interaction of Plaintiff and Defendant Echevarria was the transportation of

handcuffed Plaintiff from the hospital to the jail." Next statement of Judge Mendoza "Plaintiff charged at Echevarria with a closed fist" The 3rd lie of Judge Mendoza (in cited paragraph). Third line page 29 this petition "Defendant Echevarria wrote the narrative "sequentially arranged" to describe Plaintiff's actions immediately following Echevarria's false statements asserting Plaintiff and Echevarria had engaged in "hand to hand" fighting." The 4th lie, FALSE STATEMENT of Judge Mendoza "During Echevarria's attempt to get Plaintiff under control, Plaintiff struck Echevarria in the head." As already just declared, Respondents evidence/affidavit pg. 25 "Plaintiff states that the only interaction of Plaintiff and Defendant Echevarria was the transportation of handcuffed Plaintiff from the hospital to the jail." FIFTH LIE OF Judge Mendoza "At this point, Plaintiff had committed serious crimes,. In TRUTH Defendant Echevarria is the person who has committed serious crimes, VERY VERY serious crimes. Pages 20-22 of this petition are excerpted portions of affidavit Plaintiff's Third Motion for Judicial Notice. As already stated last two lines pg.17 first three lines pg. 18 "Wright filed 4 distinct Motions for Judicial Notice commencing April24, 2019 document 223; May1, 2019 document 226; July17, 2019 document 235; September 24, 2019 document 246. All 4 Motions for Judicial Notice were sworn to. *Defendants did not file Memoranda in Opposition to any of the 4 affidavits.* United States District Court trial judge Carlos E. Mendoza did not rule on any of the 4 motions. "All Defendant's have violated Florida statute 918.13 Tampering with or fabricating physical evidence." Pursuant to *Graham v. Connor,* 490 U.S. 386, (1989) an objective reasonableness standard is appropriate analysis. Here, the defendants have tampered with AND fabricated physical evidence. *Appendix* C contains Florida Statutes and Rules and a statement of the materiality of the contents of *Appendix* C Page limitations prevent Wrights discourse of Jude Mendozas many lies in *Doc.*236

On pgs. v, vi Related Cases, Wright stated "APPENDICES B and C CONTAIN

(documents) MATERIAL THE PETITIONER BELIEVES ESSENTIAL TO UNDERSTAND THE PETITION. PETITIONER PROVIDES A PRELIMINARY FACTUAL STATEMENT WITH APPENDICES, A DESCRIPTION OF THE MATERIALITY OF THE NUMEROUS DOCUMENTS." In adhering to the page Limits of Rule 33.2 (b) [40 pages], Wright is unable to provide additional factual statement[s] to completely demonstrate the evil motive of the defendant law enforcement officers. In Smith v. Wade 461 U.S. 30(1983) "Redress commensurate to such [personal] injuries should be afforded. In ascertaining its extent, the jury may consider all the facts which relate to the wrongful act of the defendant, and its consequences to the plaintiff; but they are not at liberty to go farther, unless it was done willfully, or was the result of that reckless indifference to the rights of others which is equivalent to an intentional violation of them." Appendices B and C are essential for demonstrating the evil motive of the co-conspirator judicial process persons; as Wright states on pages 37-38 of this petition "EVER SINCE May 8, 2015 when Wright presented Motion to Dismiss on Fundamental Grounds [*Appendix* C pgs. C22 – C25] prior to the commencement of the sham bench trial, every judicial process person[s] related to this event has aggravated the evil motive[s] of the defendant law enforcement officers"... . That is the reason (logic) for such an extensive list of names on the statement of interested persons pages CIP1, CIP2.

REASONS FOR GRANTING THE WRIT

This proceeding, United States District Court case 6:17 -cv-00436 -CEM-DCI has ascertained the TRUTH of October 4, 2014 (and subsequent facts which relate to the wrongful acts of the defendants, and its consequences to the plaintiff) as herein presented with this petition.

The rules of this Court. Fed. R. Civ. P. Rule 12. Defenses and Objections: When and How Presented; Rule 12(b) How to Present Defenses. Every defense to a

claim for relief in any pleading must be asserted in the responsive pleading if one is required. But a party may assert the following defenses by motion: (1) lack of subject-matter jurisdiction; (2) lack of personal jurisdiction; (3) improper venue; (4) insufficient process; (5) insufficient service of process; (6) failure to state a claim upon which relief can be granted; and (7) failure to join a party under Rule 19.A motion asserting any of these defenses must be made before pleading if a responsive pleading is allowed. If a pleading sets out a claim for relief that does not require a responsive pleading, an opposing party may assert at trial any defense to that claim. No defense or objection is waived by joining it with one or more other defenses or objections in a responsive pleading or in a motion." Pursuant to Rule 12(h) "Waiving and Preserving Certain Defenses.(2) *When to Raise Others.* Failure to state a claim upon which relief can be granted, to join a person required by Rule 19(b), or to state a legal defense to a claim may be raised:(A) in any pleading allowed or ordered under Rule 7(a);(B) by a motion under Rule 12(c); or(C) at trial."

Simply stated, **Defendant Respondents motion for summary judgment defense was not timely filed and failed to comply with the Fed. R. Civ. P. and Respondents Motions for Summary Judgment are violations of law.**

EVER SINCE May 8, 2015 when Wright presented Motion to Dismiss on Fundamental Grounds [*Appendix* C pgs. C22 – C25] prior to the commencement of the sham bench trial, every judicial process person[s] related to this complaint has aggravated the evil motive[s] of the defendant law enforcement officers [excepting Assistant State Attorney Krissia E. Mendez, Fla Bar #112642 who nolle prosequi Wright in case no.; 49-2014-003885] who disfigured Wrights face and broke Wrights

nose while Wright was face down on the ground with his hands handcuffed behind his back. It is the Constitutional Duty and Job of this Court to remedy this uniquely extraordinary cause of exceptional circumstances.

THE Eleventh Circuit Court of Appeals, Circuit Court Judge Carlos Mendoza, Defendant City of Kissimmee, almost *all Judicial Process Persons identified in this Petition, corrupt habitual perjurer, former law enforcement employee defendant Felix Echevarria and his defendant associates* DISPUTE *the* JUDICIAL POWER *of this* COURT and The Courts intent. IF THIS WAS NOT TRUE, THIS PETITION WOULD NOT BE BEFORE THIS COURT. The defendants and The Judges of the inferior courts BELIEVE[D] that Wright would and could not, present an adequate petition to THIS COURT *AND*, that THIS COURT would even entertain pro se non lawyer Wrights petition. The merits of this petition are indisputable and irrefutable. The record *is* the evidence to the end of ascertaining the truth of that reckless indifference to the rights of others which is equivalent to an intentional violation of them, this tort is aggravated by the evil motive, [of all aforementioned persons] in addition to the evil motive of the defendant law enforcement officers.

The United States Constitution Article III Section I "The judicial Power of the United States, shall be vested in one supreme Court,"...

The United States Constitution Article VI Clause 2 "shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby,

The United States Constitution Amendment 7 "the right of trial by jury shall be preserved"

The United States Constitution Amendment 14 Section 1 "All persons... equal protection of the laws." *The entire verbatim quotations recited at pgs. 2 and 3*

Constitutional Provisions

Rule 10. Considerations Governing Review on Certiorari "Review on a writ of

certiorari is not a matter of right, but of judicial discretion. A petition for a writ of certiorari will be granted only for compelling reasons." The compelling reason(s) to call for an exercise of this Court's supervisory power are that a United States court of appeals has entered a decision in conflict with the rules and decisions of this Court. A United States court of appeals has decided an important federal question in a way that conflicts with the rules and relevant decisions of this Court, and has so far departed from the accepted and usual course of judicial proceedings, as to call for an exercise of this Court's supervisory power;

Rule 20. Procedure on a Petition for an Extraordinary Writ Issuance by the Court of an extraordinary writ authorized by 28 U. S. C. § 1651(a) is not a matter of right, but of discretion sparingly exercised. To justify the granting of any such writ, the petition must show that the writ will be in aid of the Court's appellate jurisdiction, that exceptional circumstances warrant the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court." Petitioner Wright has amply demonstrated the requisite showing

This Courts Decision in *Village of Willowbrook v. Olech*, 528 U.S. 562 (2000) regarding the equal protection Clause of the 14th Amendment is directly at issue as is The Courts rulemaking authority under U.S.C., 28, §723 b and §723 c (1934). And The Courts decisions in *McQuiggin v. Perkins* 133 S. Ct. 1924(May 28, 2013), *Smith v. Wade,* 461 U.S. 30(1983), *Graham v. Connor,* 490 U.S. 386, 396(1989), *Strickland v. Washington,*466 U.S.668(1984), *Almendarez–Torres v. United States,* 523 U.S. 224(1998), *United States v. Resendiz-Ponce,* 549 US 102(2007) and *Heck v. Humphrey,* 512 U.S. 477(1994) are also at issue.

The Code of Conduct for United States Judges Canon 2A. (A)*Respect for Law* has been egregiously violated by District Court Judge Mendoza. Wrights Petition has unequivocally clearly established Judge Mendozas lack of respect for law including decision [s] of this court, Fed. R. Civ. P., Federal Rules of Evidence and 28 U.S.C. § 1343(a) (3)

(3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States; AND

Judge Mendoza has egregiously violated his OATH of office, 28 U.S. Code § 453, verbatim recitation pg. x. SIMPLY PUT: Appendix A pgs. A114-A116 is defendants defense and defendants motions for summary judgment are unlawful; however, defendants motions did provide the method by which District Court Judge Mendoza revealed his enthusiasm to betray his oath of office and the Constitution. Judge Mendoza's lack of respect for Law is indisputable. EXACTLY like the defendants, Judge Mendoza actually believes the Supreme Courts civil Rules of procedure do not apply in "his" courtroom nor do the Federal Rules of Evidence. BECAUSE, as Wright already stated on pg.32 "Judge Mendoza despises TRUTH"; exactly like the defendants (particularly Felix Echevarria) AND NUMEROUS JUDICIAL PROCESS PERSONS

CONCLUSION

Wrights petition presents uniquely extraordinary exceptional circumstances that the writ will be in aid of the Court's appellate jurisdiction, the extraordinary facts of the proceeding warrant the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court. This petition is timely filed in good faith.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Michael J. Wright

Date: 1/28/21

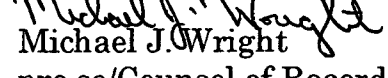
CERTIFICATE OF COMPLIANCE WITH SUPREME COURT RULE 33

This petition complies with the typeface and type style requirements of Supreme Court Rule 33.2(a) because it is permitted by the rules, is double spaced, except for indented quotations which are single spaced on opaque, unglazed white paper. The document is bound at the upper left-hand corner. Required copies are produced on the same type of paper and are legible in century 12 point. This petition complies with the type-volume limitations of Supreme Court Rule 33.2(b) because it contains less than 40 pages, excluding the questions presented, the list of parties and the corporate disclosure statement, the table of contents, the table of cited authorities, the listing of counsel at the end of the document, or any appendix. The exclusions specified in subparagraph 1(d) of this Rule apply.

CERTIFICATE OF SERVICE

I, Michael J. Wright, do hereby certify that on January 28, 2021 I have mailed an original and 10 copies of the enclosed document via United States Postal Service delivery by mailing to Clerk of the Court, United States Supreme Court, 1 First Street, N.E., Washington D.C. 20543. Pursuant to Rule 29.3, I certify I have also mailed via first class United States Postal Service 1 copy of the foregoing document to Counsel for all Defendants Ian D. Forsythe, 105 East Robinson Street, Suite 201, Orlando, Fl. 32801; (407)425-4251 iforsythe@hilyardlawfirm.com.

Pursuant to all Relevant Federal Statutes, Federal Rules, and State Statutes, Plaintiff, under penalty of perjury, states this Document is true and correct regarding all material information, statements, assertions, allegations, and or facts.



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