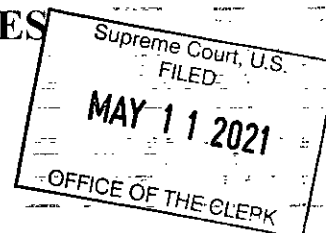


No. **20-8396**

Lt Case : 6:05-cv-1806; and 6:18-cv-00193

**ORIGINAL**

**IN THE  
SUPREME COURT OF THE UNITED STATES**



Renee Denise Bell -Petitioner,

Pro-Se.

vs.

Florida Highway Patrol/Larry Costanzo Et.al.  
US Bank National Association Successor By Merger/Leader Mortgage  
US Bancorp/Oaks at Powers Park HOA/Et.al.  
Respondent (s).

**ON PETITION FOR A WRIT OF CERTIORARI TO**

**UNITED STATES COURT OF APPEALS**

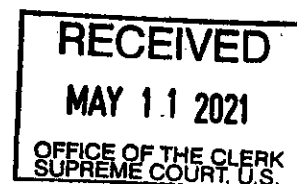
**For the  
ELEVENTH CIRCUIT**

\_\_\_\_\_  
Name of Court That Last Ruled on Merits of Your Case

**PETITION FOR WRIT OF CERTIORARI**

Renee Denise Bell / S/.  
PO Box 362  
Winter Park, Fl.32790  
5/2/2021

A handwritten signature in black ink, appearing to read "Renee Denise Bell", with the date "5/2/21" written below it.



## **QUESTIONS PRESENTED**

1.

Should a Mandated order issued by a United States Appeals Court [Specifically, the Hon. Eleventh Circuit Court of Appeals] be struck down by a decision of a United States District Court-specifically-U.S. District Court the Middle District-Florida, that it did-not agree with the mandated decision. Henceforth, subjecting a plaintiff, to consecutive appeals to reverse, and by that very same conduct of the District Court-the longevity of those appeals-bring the civil case to the door of the Statue of Limitations. Is this the Justice-and Judicial system that the United States represent. *Further*, should this type conduct be tolerated by the United States District Court-Middle District Fl. in removing access to the Courts for indigent individuals. [Those that are not represented-or cannot -- afford counsel. Furthermore, would it be considered violation of a Civil Liberty of the US Constitution, being that one of the five key-civil liberties is "the right to petition the government for redress of grievances [ Wherefore, why would the appellant, be denied this privilege]. [2] Did the District Court, abuse discretion in holding case from progress up near Statute of Limitations? though case is timely filed.

**LIST OF PARTIES**

☐ All parties appear in the caption of the case on the cover page.

☒ All parties **DO NOT** appear in the caption of the case on the cover page.

A list of all parties to the proceeding in the Court whose judgement is the subject of this petition is as follows.

**ET-AL:**

1. Larry Costanzo.
2. Cyrus Brown
3. Oaks at Powers Park-Homeowner-Association/Marilyn Vance.

**RELATED CASES**

Renee Denise Bell v.  
Case No: **18-12956** Florida Highway Patrol/Larry Costanzo, Et.al.  
United States Court of Appeal/Eleventh Circuit.  
Judgment entered.

Case No: **18-13227** " Above-same as **18-12956**"

Case No: **19-10568** Renee Denise Bell v.  
US Bank National Association Successor By Merger/  
Leader Mortgage. [US Bancorp] Et.al-  
Oaks At Powers Park.  
United States Court of Appeal/Eleventh Circuit.

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\*

## **STATUTES AND RULES**

28 U.S.C. §1254(1).  
18 U.S.C. § 242  
Title 18 § 372

## **OTHER**

94 Stat. 2369.  
12(b)6.  
Informal-Pauperis  
Mandate:Doc:69

**IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI**

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

☒ For cases from **Federal Courts**:

The opinion of the United States Court of Appeal appears at Appendix A to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

The opinion of the United States District Court appears at Appendix B to the Petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

☐ cases from State courts:

The opinion of the highest state court to review the merits appear at Appendix \_\_\_\_\_ to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the \_\_\_\_\_ Court appears at Appendix \_\_\_\_\_ to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

## **JURISDICTION**

☒ For cases from **Federal Courts:**

The date on which the United States Court of Appeals decided my case  
was \_\_\_\_\_

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of  
Appeals on the following date: 02/19/2021, and a  
Copy of the Order denying rehearing appears at Appendix C  
03/2021

☒ An extension of time to file the Petition for a writ of certiorari was granted to  
and including \_\_\_\_\_ date on \_\_\_\_\_ date  
in Application No: \_\_\_\_\_ A \_\_\_\_\_.

**The Jurisdiction of this Court is invoked under 28 U.S.C. §1254(1).**

☐ For cases from State courts:

The date on which the highest state court decided my case was \_\_\_\_\_.  
A copy of that decision appears at Appendix \_\_\_\_\_.

☐ A timely Petition for rehearing was therefore denied on the following date:  
\_\_\_\_\_, and a copy of the Order denying rehearing appears at  
Appendix \_\_\_\_\_.

☐ An extension of time to file the Petition for a writ of certiorari was granted to  
and including \_\_\_\_\_ date on \_\_\_\_\_ Date \_\_\_\_\_  
in Application No. \_\_\_\_\_ A \_\_\_\_\_.

**150-DAYS FOR ALL PETITIONS DUE COVID-19 \*\*\*\*\***

The jurisdiction of this Court is invoked under 28 U.S.C. §1257 (a).



**CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

1.

**CONSTITUTIONAL-**

US Constitution-**Article III**-Authorizes the Supreme Court, to decide all cases arising under Federal Law, and in disputes involving states.

Amendment-1

Amendment-8/13

Amendment-14

Amendment-5

Supremacy Clause-Article VI-Para.(2)-US Const.

Magna Carta

2.

**A. STATUTORY PROVISIONS:**

28 U.S.C. §1254(1).

Title VIII Chapter-95- FL. STATUTES

1. 95.051

2. 95.051-(a)

3. 95.051 -(c)).

4. 95.051

3.

## INTRODUCTION STATEMENT OF THE CASE

\*\*\*\*\*

This case presents important questions concerning claims of workplace "Sexual Harassment" brought under Title VII of the Civil Rights Act of 1964, 78 Stat. 253, as amended, 42 U.S.C. § 2000e et. seq.

According to the Equal Employment Opportunity Commission [EEOC] there are two types of Sexual Harassment claims. (A). "Quid pro quo" and -  
(B). "Hostile - Work - Environment."

"Quid pro quo" – simply means-"this for that" involves expressed or implied demands for sexual favors in exchange for some benefit.

"Hostile - Work - Environment." - simply means- arises when a speech or conduct is so severe and pervasive it creates an intimidating and demeaning environment or situation that negatively affects a persons job performance.

This case : (B) Hostile - Work - Environment:

Appellants claims, are intertwine both federal, and state. The Hostile Work-Environment claims have-not-been-address by the Court. The Supreme Court, explain: that Hostile Work-Environment Claims are different in kind from discreet acts. The key nature involves repeated conduct. Frank v Xerox Corp. 347 F.3d 130,136, (2003). The Statute of Limitations, are different with those claims. This case raise argument regarding Statute limitations. Errors, began when District Court fail to consider the record, this would invoke the Courts subject-matter jurisdiction. The District Court dismiss- and affirm the magistrates **R & R**. [The magistrate fail to review record when decision is given (a). Objections are file. (b). Notice is not provided that Court- case number change which delay filings (C)). Appellant-is not notified on 12(b)6 Motion- file by [FHP] -that caveat of 12(b)6 require-(d). Notice by the magistrate-is not receive.(1). Magistrate un-inform of record fail to consider case that is [post-appeal]- and that Complaint, indicating a new case is Pro-Se' error]. Further, leave to amend, should have been provided-prior- dismissal of complaint-and case. The case is fourteen years on District Court-docket, removal-only to- appeal- premise on dismissal of a mandate. In this case, the [report-recommendation] relied upon matters outside the pleadings, base on FHP-allegations. Klemm v. Astrue, 543 F.3d 1144 (2008). Thompson v. Schweiker, 665 F.2d 936, 941. Further: is argument on Res-judicata-res judicata although-this will not bar a second suit base on independent contractual breach, or when the second claims are a continuing wrong.

## I.

### **BASIS-FOR- INVOKING JURISDICTION OF THE COURT**

**Standing:** To establish Article III standing, the Constitution require a plaintiff to identify an injury in fact that is fairly traceable to the challenged conduct and to seek a remedy likely to redress that injury. *Spokeo, Inc. v. Robins*, 578 US 330, 338; (2016). This case is complex: **[PART-A]** of the dispute is **whether** Florida Statute-Limitations, bar-state claims Under §1983 ref. Doc:14. On FHP-12(b)6 Motion for dismissal, and grounds for appeal. [Although- state claims originate Under Title VII-CRA-1964-Sec. §§.2000e-2;2000e-3 EEOC- Release- to- District Court-[by **Right-to-Suit-Letters**] Moreover, is-§-§§§§1981,1983,1985,1986, on state claim intertwine with [XIV-Amend-issues]. FHP- argue that Res-Judicata, and/or- Collateral Estoppel- should bar -Constitutional obligation though case timely file-but longevity in Court, bring near statutory limit. The District Court delay-progress-base on decision not to honor-favorable Mandate. The case timely file-before any statutory requirement. However, faces continuous denial to court-access. [Mandate issue by U.S. Court Appeal/Eleventh Cir. [Doc:69] April 15 2009-Case: 6:05-cv-1806. The two tribunal-Cases that are-one in same 6:18-cv-00193, and 6:05-cv-1806. **[PART-B]** of dispute is **whether** the remedy appellant sought-Punitive, Monetary, and Compensatory/Treble damage, can redress the completed Constitutional- violations that appellant demonstrate occur when a Fl. Highway Patrol official [Costanzo]-assault and injured-appellant. 911-ER respond and from this FHP-call-embarrassment-Therefore, [FHP] retaliate by termination. The conduct violate Whistle-blower protection, and the Fourteenth Amend., Equal Protection that [FHP] terminate in terms and conditions of employment, because of a [lawful-act] by employee. Appellant, informed violation occur for report of-injuries and damage, because FHP-enforced-a-code-of-Silence-on-assault. Appellants speech is Constitutionally protected, the right is clearly establish at occurrence, under U.S. Constitution, First Amend. The prevailing Rule at-[Common Law] is that a party whose rights are invaded can always recover nominal damage without furnishing evidence of actual damage. **However, this case has evidence of actual damages, traceable to the challenged conduct, and remedy to redress the injury.** Nominal damages are not purely symbolic, ... awarded by default, until an established- entitlement to other damages. *Uzuegbunam v. Preczewski*, 8,11 (2021)...does not provide full redress, partial remedy satisfies redressability requirement. *Church of Scientology of Cal. v. United States*, 506 US 9,13 ( 1992).. **[PART-C]** **resolve conflict** , between Eleventh-Cir. Mandate Doc:69 April 15, 2009-and decisions of the U.S. District Court, to change Order-of- Complaint, which conflicts the Mandate- since case instruction is adopted- that-does not-warrant **repeat-dismissals**].

**II.**  
**STANDING**  
**REFERENCE: DAMAGES**  
**EQUITABLE RESTITUTION OF BENEFITS \***

**Cont.:** OR abuse of discretion, that several Motions, were pending, on other federal claim-denied as Moot, and without hearing, move on appeal. The Motions set forth facts that conclusions could be found in the Courts-record. The **First** petition, allege no facts, FHP argue bare conclusions. However, "**Second**" petition allege facts that might entitle to relief, = [Mandate-Doc:69-Elev: Appeal Ct.]. [[**This Immediate Petition\*\*** is on [Post-Appeal] return and dismissal-With Prejudice]].

**Appellant, request Punitive, Monetary, and Compensatory Damages: (1) Punitive:** An order for punitive, should prevail premise on officials-FHP, Costanzo, & Browns-conduct, demonstrated-below. [FHP] had knowledge [employee-Costanzo] has a mental-issue-and in-capable of controlling his temper, and his tantrums are-mental- breakdowns, that cause-consecutive transfers in [Dept.-FHP]. FHP- official-[Brown] turn-from office-policy in investigating numerous- Complaints, on Costanzo's- behavior. Complaints, were through [Browns] office-up to including administrative office exhausted. District Manager, Brown-close door on agency policy, and protections, which an assault occur. The Fl. Highway Patrol Deliberate-Indifference, to substantial risk of serious harm to appellant violates the Eighth Amend.-deliberate indifference to safety, despite knowledge FHP known of Costanzo's reckless behavior, and in other-FHP- departments, as well, after several complaints. FHP-known/or should have known, appellant,- would be subject to harm-attack, base on known characteristics that amount to deliberate indifference this failure violate eighth amend- rights, where appellant sought compensatory-punitive- damages. Moreover, is discrimination by racial-segregation, by agent-Costanzo-on behalf of FHP. Estelle v Gamble 429 US 97 1976, Wilson v. Seiter US 294 1991, Bivens v. Six Unknown Fed., Narcotics Agents 403 US 388 1971. In addition to mental anguish, and body-injuries, right-arm/hand/back-knee and-back injuries-because of a fall after assault, suffered-slight-unconsciousness, loss of muscle-control-and ability to stand after shock. The Support-and Comfort receive repeatedly by employees of NAACP [ Natl.-Assoc. Advancement Colored People] assist -**daily** regarding [FHP] racial harassment. Bureau for- Administrative Hearings, Supervision, HUD Housing Authority's Supervision, EEOC Equal Employment Opportunity Commission/ Civil Rights sponsors, and other- Leadership-Orlando-City Hall, and Congress-Geraldine Thompson-House District, 44- whose office refer-to: Congress Corrine Brown, during this tragedy- was a source of comfort.

## **II. REFERENCE: DAMAGES**

### **EQUITABLE RESTITUTION OF BENEFITS \***

The incredible service NAACP- provide at time of injury minimize need for psychiatric care, on trauma incident. [2] representatives of the Orange County Sheriff-respond after assault, this is [two- off-duty] deputies enroute home that dedicate-service.] Wherefore, **Punitive** damage should exist on deliberate actions, outrageous conduct, and gross negligence. The negligent conduct, of [ FHP]-and [US-Bank]- that attribute to loss of Homestead property: is Case: 19-10568, on- Appeal-Elev. Cir]. [FHP-conspired with [US Bank] In-continual retaliation. The aforementioned conduct is Conspiracy, to impede -and injure an officer-appellant, a former-911-officer- clerical-employee. FHP by threat -intimidation, conspired to cause harm that end by wrongful discharge. Appellant escorted-from position. The aforementioned Conspiracy- was meant to cause harm-injure- in -person, and property on account of exposure of government corruption. 15 USC 7A-3 (a)1. Violation of Whistleblower Protection-Act. FHP-termination also violate rights under 448.102 (3) Fl. Stat. and suspending-termination violate 448.102 (2).F.S.

[US-Bank] aware of termination- part of conversations between appellant, US Bank- and [FHP]Agent Costanzo. [US Bank] agree with [FHP] to decline signature confirmation- which a contract fail- that at termination would effectuate. The Contract, initiate by employee-payroll-deduction. A signature-confirmation- was to verify-terminated position--and signature for receiving party. The object of Conspiracy was for Appellant-to feel [FHP] wrath of retaliation as punishment. [US-Bank]- argue [three Bankruptcies- **2013-2015-2016**]- Discharged--Zero- balance -that with held from immediately obtaining homestead property.

The '**2013**, filed- Bankruptcy, end argument-base-on [plea-settlement]-though- settlement [**fail**]. Wherefore, appellant return to re-instate a '**2015 Bankruptcy**, is- Denied. [ Appellee-US Bank-US Bancorp]reset sale. The District Court was without an official judgement. At Third- attempt to sell-and appellant file Bankruptcy-[**2016**] A timely-" Suggestion of -Bankruptcy." However, presiding Judge, advise Clerk--continue proceeding-Auction-sale. Wherefore, Clerk verified with appellant-by computer-showing "Direct-Order" dis-regard - Bankruptcy- The property illegally-sold. This conduct, is meant to harm. Thereafter, constant Monitoring-Surveillance-and deliberate aims toward appellants life attempts on veh-accident. A- Pro-Bono appointment-by District Court, declined representation based on character-assassination by [FHP] retaliations. The appellant continues to suffer. The errors still remain on potential-credit.

## **II. REFERENCE: DAMAGES**

### **EQUITABLE RESTITUTION OF BENEFITS \***

The Fl. Highway Patrol willfully subject Appellant to the deprivation of rights, privileges, and immunities, secured by the US Constitution, or laws of the United States, to different punishments, pains, and penalties, on account of the appellants race, and other aforementioned, under CRA-1964 Title VII- and **Title 18 U.S. Code §242-Deprivation of Rights Under Color-of Law: Further** [FHP] and [US Bank]-did impede appellants rights during discharge of appellants employment- in terms of termination- contract, on appellants Homestead Property. [FHP] Retaliate-on agency embarrassment-[US Bank]-gain illegal-land-and-Homestead property. **Title 18 § 372.** illegal conduct is committed on fraudulent actions. As a continual-retaliation -FHP-Nationally-televise, dis-credit, and defame appellants character, the effort to obliterate actual occurrences, and direct an audience to employee performance. Though performance issues are remove by organization-**PERC-Public Employees-Relations Comm.** **Prior** transfer **EEOC**—to the US District Court. The PERC-Comm- determination- advise [[employee performance has nothing to do with the issues before the Court]]. Appellant is not able to seek gainful employment, in trained field. The conduct cause deprivation of the profits and emoluments might otherwise have obtained. *Dods. v. Evans*, 15 C.B.N.S. 621, 143 Eng. Rep. 929 (C.P. 1864). The action for damages- involve prospective harm to appellants reputation, *Marzetti v. Williams*, 1 B. & Ad. 415, 420, 109 Eng. Rep. 842, 844 (K.B.1830). [ Banks failure to timely pay was injurious to the character of the appellant, in his trade”]. See: C. Addison, Law of Torts 46-47 (1860) The [Defamation-actionable without proof of damage). Moreover, is “**Unusual-Court-delay**” denial of justice- on hearing on controversial issues. [[“ **WHEN** is the governmental-delay reasonable]]” Clearly, a deliberate attempt by the government to use court delay to harm the accused; or governmental delay that is purposeful or oppressive, is **Unjustifiable**.. same applies to governmental delay that is “un-necessary”, whether intentional or negligent in origin, A negligent failure by the government to ensure a trial is- virtually as damaging to the interests protected by the right, as an intentional failure ; when negligence is the cause. In determining legitimacy, and whether it could have been avoided, [reasons] **A. The Intrinsic importance of the reason for the delay. B. Length of delay, and its potential for prejudice to interests protected by speedy trial-safeguard.** [appellant]-a minority without support of counsel, the case is purposely delayed without intention to honor Due Process. District Court, denies “**Court-Access.**” A lengthy delay, even in the interest of realizing an important objective, **would be suspect.** *Dickey v. Florida*, 398 U.S. at 51,52 (1970).



## **II. REFERENCE: DAMAGES**

### **EQUITABLE RESTITUTION OF BENEFITS \***

Appellants, case has never been to trial- [Appellant, is prejudiced by delay] The case is filed approx.: '2-month of occurrence-**However**, District Court- carry case fourteen yrs., into -Statute of Limitations.]] the case enter U.S. District Court by EEOC- Under Title VII-CRA-1964. EEOC-release and provide-[ right-to suit-] The procedural-administrative requirements-exhausted. Appellant, is not afforded procedural protections that Due Process require-as a public employee-reference Liberty and Property-Interest]. The career service position provide for hearing, and review of dismissal by the enforceable property interest. Moreover- the Liberty Interest-In-good- name -and reputation, are accorded the -procedural-safe-guards before those interests-are deprived. Appellant, is denied the constitutional rights-Deprivation of Liberty Interest, which fictitious allegations, unsupported charges-wrongfully continue to injure reputation [Court access **should-not** be denied]. Bounds v. Smith, 430 U.S. 817 (1977). The removal-Life-Liberty-Property Clause Fifth, and Fourteenth Amendment, clearly violated. The fundamental requirement of Due Process....is-meaningful time...meaningful manner" to be heard. (1). The appellant, file this original- case 12/05/2005. (2) A Pro-Se-Litigant, receive favorable- Mandate on **Second**-Amended-Complaint. (3). The appellant, was a Civil service employee-with protected property rights-entitling to a "speedy-trial" for public service employees. (4). Appellant-has First-Amend. cause of Action. The case is premise on federal claims-though intertwine with [State-Action] The Federal issues are Bivens- and a ADA-claim that confirm an-injury-disability.

**Punitive** damages should be to reform or deter defendants from engaging again, in similar cases, which form basis of this lawsuit. The conduct of [FHP]-shameful-dishonorable lacking honor and integrity, that no matter what hatred one has for any person-the "Color" of his/her skin -should not matter. **Monetary-** Injury and loss base on deliberate negligence. **Compensatory** : loss is result of negligence, and unlawful conduct, of [FHP] and agents[12-M] Compensatory-Treble damage [time-3] Racial-base-deliberate denial to use-restroom- as Caucasian employees. Deliberate denial to blacks of an opportunity to use public restroom on account of race violate the Equal-Protection Clause of the Fourteenth Amend. Swain v. Alabama, 380 US 203,204 (1965). The rear entry to building during work hours [because of race], and separation from Caucasian-employees-on race . Moreover-locked in [closet-space base- on-race-Racial-Segregation]. Infliction of "Cruel and Unusual Punishment, violate the Eighth & Fourteenth Amendment. Equal Rights under the law §1981 (a-c) Civil action Deprivation, allows recovery of Compensatory and Punitive Damage -Intentional-violations-Title-VII.





## **II. REFERENCE: DAMAGES**

### **EQUITABLE RESTITUTION OF BENEFITS \***

[FHP]-“only” assert denial of state-claims under §1983, in the request to dismiss citing [Estoppel]. “Estoppel-Demonstrated below”:

The Claims of Appellant-that relate to §1983, 1981-Title VII- and Fourteenth Amend- “Under Color of- State Law”- To “act” BEYOND the bounds of lawful authority, but in the manner that the Unlawful-acts were done while the official, either was purporting or “Pretending” to act in the performance of his official duties. FHP et.al clothed with the authority of the state, pretended-WHEREFORE, FHP-Motion to Dismiss, [Doc:14] should be reverse. The request for **Treble** Damage: based on complex case-where legal and factual issues are unusual. Thus require expenditure of more time, skill, and effort than would be required in an average case. Further, because of longevity-of case-no counsel willing to represent- after FHP-fictitious allegations.

The case began 12/05/2005,- complex, where train counsel is needed at onset large civil case, multiple parties, and diversity-of Citizenship. Reference Court appearances-FHP- agree by sworn affidavit-before PERC-Committee-to deliver [Costanzo-] before the Courts-[when called for this case].[FHP] fail-on sworn testimony. Fl. Statute-95.051-**Concealment**- of the person to be sued, toll the Statute. Fl. Stat. 95.051(d) action is filed within [one year] of event, giving rise to the cause of action. **Ch.95 Fl.Stat.** Year-2020. [[This-Testimony-is **prior case transfer-by EEOC:** to District Court]]. Wherefore, prior judgment not final.

Costanzo, primary to-suit- is not process serve- District Court, is **Notified-on the process return-and deny-extension on service of party to suit-diverse-citizen**-[ Doc: ] Michigan. US Bancorp- parent Co. to -US-Bank- **Headquarters-Minneapolis, Minnesota.** [US-Bank-US Bancorp-above caption- Is process-serve-diversity exist., this Case **19-10568-** relate on retaliation. The amount-sum-in controversy-is over the \$75000-diversity standard.

The second-complaint, which is mandate- appellant request \$12.M+treble damage- this restitution for purposeful [delay-of-justice], which is same as denied. Further, treble damages-declaratory, and [in-junctive relief] for claims that FHP- aim- to deter case and remove from Court, by meaningless-dismissal-Motions. FHP- continue Harassment-threats same as on termination-those are: Denial of salary, for un-employment, public assistance, denial disability-[though disability]-latter approve-threats in removal, monitoring-daily, unemployment-block after began, retaliation on report to worker-comp., for care on injuries, and denial of physician-medical visits.

## **II. REFERENCE: DAMAGES** **EQUITABLE RESTITUTION OF BENEFITS \***

The multiple-vehicle attacks, and defamed credibility with businesses, and or agency's when applying for employment. Further, is-denial of performance-of-contracts of Insurance held by appellant-obtain through employment; which at termination-agency signature, required to release funds. Further [FHP], interfered with education, denial of loans through college[FHP- personnel employed at college-loss scholarship, and ended career. [FHP] aimed to destroy credibility.

.....

### **"DAMAGES AND THE ELEVENTH AMENDMENT"**

#### **EDELMAN V. JORDAN 415 U.S. 651 (1974).-ELEVENTH AMENDMENT**

A. The **aforemention Damages** are barred by the Eleventh-Amendment.

#### **Edelman:**

1. The Eleventh Amendment of the Constitution bars that portion of the District Courts decree that order retroactive payment of benefits. Pp. 415 U.S. 658-678
2. A Suit by private parties seeking to impose a liability payable from public funds in the state treasury is foreclosed by the Eleventh- Amendment if the state does not consent to suit. Pp. 415 U.S. 662-663. It has been long held that sovereign immunity of the state prevented a suit to recover money in the state treasury. Smith v. Reeves, 178 U.S. 436 (1900).
3. **Aforemention-** the Eleventh Amendment, prohibit [back-pay- Money you would-have earn had-had termination NOT occur. Back-pay cover-bonuses, vacation-leave, and healthcare. The issue : Discriminatory Termination, the costs, and pension-payments, &-[Front-Pay-Equitable remedy, is reference employment discrimination.
4. The request is "**Equitable Restitution**"\*\*\* rather -Compensatory damage- Equitable Relief within meaning, Doctrine of Ex parte Young. 209 US 123 (1908). aforemention officials were under federally impose obligations which is violated. Edelman clearly permits federal court to grant forward-looking injunctive relief even if compliance by state officials entails payment of substantial sums from the state treasury.
5. Edelman -limit federal courts to providing only prospective relief. In Ex Parte Young, (1908), a federal court suit, seeking to enjoin a state official from committing UN-Constitutional-acts is not suit against the state\*.

**CONT:**

## II.

6. Rather, suit against a state official in .. individual capacity...by acting in an unlawful manner, is stripped of the authority and imprimatur of the state\*.

*Ex parte Young* enable federal courts to entertain actions against state officials in various types of section 1983, civil rights act 42 U.S.C. 1983 (1976). [ The - appropriate transfer of the gov. funds]. In delineating the kind of relief *Ex parte Young* permits, *Edelman* Court held that federal Court is empowered to order expenditure of funds from state treasury if [Ancillary] to injunctive relief. *Ex parte Young*, 209 U.S. 123 1908. Further, 1985(3) provide 'cause of action' reference aforesaid [private-conspiracy], in violation of constitutional rights-of Fourteenth amend.

### Note:

Article III of the Constitution authorize federal courts to decide only 'cases' and 'controversies' -that is, cases of a Judiciary nature". 2 Records of the Federal Convention of 1787, p. 430 (M. Farrand ed. 1966)(J. Madison). "The constitutional power of federal courts cannot be defined, and has no substance without reference to necessity to adjudge legal rights of litigants in actual controversies." Quoting *Liverpool, New York & Philadelphia S.S. Co. v Commissioners of Emigration*, 113 U.S. 33,39 (1885)). The case in the District Court, approx.: Fourteen yrs., this is a case with continual controversy.

\*\*\*\*% % % % %\*\*\*\*

## III.

### **SECTION-III : THE APPELLEE [FHP]ARGUMENT-AT DOC:14** **-REQUEST THE DISTRICT COURT TO DISMISS CASE-AND** **COMPLAINT- BELOW IS APPELLANTS RESPONSE-** **REBUTTAL TO [DOC:14]**

THE FHP MOTION TO DISMISS WAS A 12(b)6 MOTION ON AN **INFORMAL PAUPERIS PETITION**- FOR FAILURE TO STATE CLAIM  
In essence, :RULE-56 SUMMARY JUDGMENT BASED ON BELIEF OF RES-  
JUDICATA. APPELLEE-US BANK "**DID-NOT**" FILE A MOTION IN THE  
**CASE\*\*\***

### **Res-Judicata:**

District Court, premise on the Report/Recommendation of the Magistrate deny appellants requests for hearing, and Motions for re-consideration because the magistrate fail to review the Courts Record. Further, based on findings , information outside the pleadings, and Motion of Appellee-FHP at [Doc:14]. The District Court recommend case-dismiss, and closure.

### III. -CONT.

District Courts affirmance is-plain-error, (1). The magistrates verification of the record would have shown the appellant-filed objections-although-late, that appellant is not notified by the USDC Middle District, of case number change during time case -on appeals. (2). Notice is not receive from the magistrate-on FHP Motion for summary judgment, the 12(b)6 caveat on the Motion require Notice. (3). Had notice receive the[10-day-grace] would be met. Moreover, request to amend Complaint, at least once prior dismissal, of case and complaint. Fed. R. Civ.P. 15(a) Foman v. Davis 371 U.S. 178, 182 (1962).

The Rules of Civil of Procedure, encourage an opportunity to amend before dismissal. 2 James Wm. Moore, et al., Moore's Federal Practice §12.34[5] (2000). A dismissal for failure to state a claim is on the merits. Johnsrud v. Carter, 620 F.2d 29,32-33 (1980). To dismiss a plaintiffs claims on the merits, without first permitting an opportunity to amend, would constitute a forfeiture resulting simply from noncompliance with the Rules of Civil Procedures. [This case has shown a mis-carriage of justice-over fourteen-yrs. repeatedly, and aimed at the strike of the merits]. (4) Review of the record would verify longevity of case-that case is [not-new], and the Pro Se' request for new-case is error. Further, would reveal, case recent return post-appeal. Therefore, because of Non-review the **R&R** does-not correctly confirm the record. *Wherefore* reversal of the order should be granted. **Res-Judicata**, does not apply, that the period of state claims from original complaint, are not the same as federal -Bivens actions, and are entirely outside the period alleged in initial-claims. There is material evidence that supports the findings in this case-demonstrated above. Further, on denial court access, the case does not present a lack of subject-matter, on the basis of the pleadings. Wherefore, [FHP] has not met its burden to request a dismissal-at[**Doc:14**].

The appellant, is not afforded the procedural protections that Due process require. Appellant, is entitled to Due Process as "Public-officer" and Civil-service employee, that local state-government employment include a property, and liberty interest. The fundamental requirement to Due process is ....opportunity to be heard. See: Matthews v. Eldridge, 424 US 319, 333 1976. Therefore, based on aforementioned the "petitions" **which follow** after mandate dismiss are inappropriate, and judgment could not conclude, on **Res-judicata** or **Equitable-Estopple**, that [prior-judgment] must be final. Creed Taylor v. CBS Inc. 718 F. Supp. 1171, 1177 (1989). The District Court has subject matter jurisdiction, [Not challenged] colorable constitutional claims **are** asserted.

### III. -CONT.

Califano v. Sanders, 430 US 99, 109 (1977). Constitutional claim is colorable if it is not wholly insubstantial, immaterial, or frivolous. The Eleventh Cir. Appellate Court favorable Mandate would not support frivolous Complaint. Further, Court access-discovery would show verifiable genuine material-facts. Rolen v. Barnhart, 273 F. 3d 1189, 1191, (2001). Furthermore, it-is-not this instant complaint, which is mandated. However after mandate-order, no other complaint-should exist.

**Equitable Estoppel**: is asserted by FHP-at [Doc:14] **an Example** :

The Florida Supreme Court, permitted a plaintiff, who had been abused as a child, to-utilize the defense of equitable estoppel, even though she did not learn of the cause of action until after the limitations period expired. Ryan v. Lobo de Gonzalez, 921 So.2d 572,672-73 (2005). In this case:[The District Courts failure to exercise jurisdiction to clarify the law regarding the Doctrine of Equitable Estoppel-Is because the District Courts opinion **conflict** with the United States Court Appeals-Eleventh Circuit, on [Doc:69] in-granting appellant, court access to demonstrate her case. Therefore, the amended complaint, "Second-Amended" **pleads** the defense of equitable estoppel to deflect the applicable statute of limitations. The [FHP] Motion to dismiss [Doc:14] should be reversed, given that the [amended complaint, and Mandate]- conclusively establishes that the statute of limitations does not bar appellants claims as a matter of law, which [Doc:69]-Mandate is the precedent for this case, on authority of The United States Appeals Court-Eleventh Circuit Court of Appeals.

Furthermore, In **tolling Pursuant to Section 95.051 Florida Statutes**, with respect to appellants claims-the claims are tolled pursuant, to Florida Statute F.S. **§95.051, (a)(c)(g)(h)**. Moreover, **Equitable Tolling Doctrine** F.S. §95.051(2) tolled the limitation period for an administrative appeal of a public employees' discharge. **Equitable tolling of time limits** have been permitted in federal actions where "active deception" took place. Cottrell v. Newspaper Agency Corp. 590 F.2d 836, 838-839 (1979). That-where plaintiff, has been "lulled into inaction by past employer, state or federal agencies or the Courts". Miller v. Marsh, 766 F. 2d 490,493 (1985).; Martinez v. Orr, 738 F.2d 1107, 1112, (1984), and where plaintiff has been "actively misled" or "has in some extraordinary way been prevented from asserting his or her rights." [**Denial** Court-access]. Wilkerson v. Siegfried Insurance Agency, Inc., 683 F.2d 344,348, (1982). Appellant, filed a timely action for violation of civil rights, CRA 1964-Title VII-CRA-1871, and §1983 against FHP-agent Costanzo, on behalf of [FHP] given Costanzo's, absense from the state.

### III. -CONT.

Section **95.051 (1) (a)** Florida Statutes, provides the running of the time under any statute of limitations except ss. 95.281, 95.35, and 95.36 is tolled by ...[Absence-from the state of the person to be sued. §95.051(1)(a).

The **Res-judicata Doctrine** argued by [FHP] is based on extrinsic evidence, Morrison v. Amway Corp., 323 F.3d 920,924 n.5 (2003). [FHP] has not met the burden of establishing that the US District Court, does not have jurisdiction which would be grounds to request that a fourteen-year civil rights case face dismissal. The District Court denies the right to redress, and court access which should not be impede. Bounds v Smith, 430 U.S. 817. (1977). Bounds, supra. At 822. District Ct., fail to comply with Constitutional standards. Appellant assert a violation of Bounds, which actual injury is derive from the Doctrine of Standing. Moreover, Monroe v Pape, 365 US. 167, 173-74 (1961) for Deprivation of Constitutional, and or federal statutory rights. The finding of the District Court, is inadequate without rebuttal, and failure to consider the record is Due Process-violation.

To assist in bringing this controversy to an end District Court, should proceed as when case-transfer by EEOC-to finalize Due Process -base on "Right-to Suit." Also, in accordance with Doc:69-Mandate-which satisfy Procedural Due Process, fair hearing is required, ...full administrative review. The earlier- pre-termination conference only produce whether FHP- grounds for termination are valid, and are Not-complete-in its findings. Thus, is case-transfer by EEOC-under Title VII. [Constitutional Due Process] Therefore, [Procedural Due Process- fair hearing and full review-in consideration of the record, and the opportunity to be heard, on rebuttal-when denied violate Due process-Goldberg v. Kelly, 397 U.S. 254 (1970).

Bivens claims are asserted on suffered compensable injury-in-fact, to rights or interest protected by the United States Constitution. The appellant sued [FHP]- and two official-agent-employees for acts describe in the lawsuit, Racial Discrimination/Segregation/Defamation-and Termination, Further base on report of injuries on Assault. Appellant, timely brought suit under Title VII-CRA 1964, Civil Rights Act-1871, and 42 USC §1983-state-claim. This case is intertwine with federal claims. Appellant allege that the state action inflicting injury flows from explicitly adopted and or tacitly authorized state policy. The Policy of Dept. of Highway Safety Motor Vehicles. Monell v. New York City Dept. Social Services, 436 U.S. 658 (1978).

### III. -CONT.

Holding that local-governments can be liable under §1983 for customs or policies that result in constitutional deprivations, which appellant suffer, loss of property in employment, loss of homestead property due to the conduct, and longevity of case delayed on docket, loss liberty, liberty interest in employment, loss of liberty to gain employment in train-field, loss of the right to equality, in contact of police assistance, loss of equality to locate professional-work related to training, the right to freedom from monitoring, following, recording on- phones, deprivation of life-freedom to be left-alone-or feel, and be secure in own person, papers, house. The federal claims **Bivens action**: *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971). Appellant, sought relief under 42 USC §§ 1983-85, the Federal Obstruction of Justice Statutes, [ ] Denial Court-Access] and *Bivens v. Six Unknown named Agents*, 403 U.S. 388, 91S. CT. (1999). [FHP] Misconduct deprived appellant of civil rights in violation of §§ 1983-85.

[FHP] violate-**Clearly Established Law**. US Constitutional issues in this case are: **Amend(1)**. Freedom of speech/press/and the right to petition the government[ Denied by District Court- in denial of Court-access, the courts are the central dispute settling institutions[ and the equal protection clause fail, because the doors to justice under the law is closed]. District Court-deny redress-in rebuttal to allegations. *Griffin v. Illinois*, 351 U.S. 12 (1956). Freedom of speech-**Amend (1)** A call to an-emergency response-team on assault with/injury-cause FHP-termination. **Amend (5)**. Self incrimination-deprivation-life, liberty, property-FHP forced-sworn testimonies without department approval-later deprive appellant of liberty/property, protections-on civil service employment at termination. **Amend (8)**. **Cruel & Unusual Punishment**-Appellant force- based on race-to separate-restrooms-and water-facility's because of race-force to use rear-of building on race-on report to duties. Segregated from the Caucasian employees -in closet-space because of race. **Amend (13)** **Involuntary Servitude**-which appellant is closed in space-Costanzo monitor. **Amend (14)** **Sect.1-abridged Immunities**: Liberty-and Property- Denial of Due Process in Court-Denial of Equal Protection of the Law-In respect to injuries-that cause termination, and Court-Access-redress for injuries. Therefore, for constitutional rights to be clearly established, its contours must be sufficiently clear that a reasonable official would understand that what he is doing violates that right...In light of Pre-existing law, the Unlawfulness must be apparent *Hope v. Pelzer*, 536 U.S. 730, 739 (2002). FHP-had fair notice, and made aware by EEOC-thier conduct is Unconstitutional.



### III. -CONT.

Anderson v Creighton, 483 U.S. 635, 640, (1987). [FHP] Numerous filed-Motions to offset-case-and remove from Courts-result to the 'requests to dismiss' though favorable Mandate-is ordered. Therefore, repeated un-necessary dismissals prevent case from progress, this conduct prejudiced appellant. The District Court, dismiss case accordingly each Motion- that deprived appellant of the opportunity of redress, and Court access. A violation of Constitutional Rights: Fundamental - access to Court, Opportunity to be heard, Equal Protection of law. The appellant is deprive of Due Process, Under Fourteenth Amendment: A). procedural-1. Notice, 2. Opportunity to be heard; 3. Impartial Tribunal. The appellant has not received any Notices, -Notice normally arrive a week, or two after a Court decision, if at all. The appellant, has not "Had a day in Court" to be heard." (3) An Impartial-tribunal not occur since case is filed December 05, 2005, the change of case-numbers alone without notice to appellant, is a prejudice, which in this instant case, without notice of the changes delayed appellant-objections, leading to dismissal [**Doc:19-Dismissal**]. Mullane v. Central Hanover Bank & Trust Co., 339 US 306 (1950). The revised Statutes, and 42 USC 1981, provide recovery of compensatory, and punitive damages. [[ Aforemention-Equitable Restitution] There are Intentional-Violations of Title VII- in this case-related to Discrimination/Retaliation, U.S. Constitution Claims, and U.S. Constitution-Amendments (1,5,8,13,and 14). The complaint, allege deprivation of constitutional rights under Fourteenth Amendment Due Process Clause. The "State" actions are actions inflicting injury which flows from explicitly adopted and or tacitly authorized "State" policy, which is the Depart. Highway Safety & Motor Vehs.

The [FHP] fail to protect appellant, from [Costanzo] recklessness allowing Costanzo to supervise, that his illness with uncontrollable temper disorder and sickness lead to assault of appellant with injuries, and based on the report [assault] in exercising First Amendment rights, is termination. Appellant, **never** had a hearing when case pass to District Court, by EEOC to conclude Due Process in respect to civil service employee, liberty and property rights. Further, the suit, is delayed by District Court on "Repeat-Dismissals" premise on [FHP] aim to block Court-Access, therefore is a procedural process and delay of case. This conduct violate the fundamental right, both Due Process, and Equal protection under the Fourteenth Amendment.

#### IV.

### REASONS FOR GRANTING THE WRIT

The Appellee-FHP believe that their repeated- Motions-to dismiss should be an estoppel for this civil case, because their "Motions" to dismiss cause dismissal of complaint, case , and a favorable Mandate, where the District Court, and the U.S. Appellate Courts, heard argument on the "Merits" on the appellant state-claims- disposing of the case. Therefore, based on those arguments "without" appellants rebuttal-brought case closure. Wherefore, according to their arguments, the appellant, should be denied fundamental constitutional rights, such as access to the Court, and Equal Protection of the Law, on the appellants US Constitutional claims.

#### A. Summary of the Argument:

When a United States Citizen is denied U.S. Constitutional fundamental rights in his/her own Country, is he even entitled to Court Access in the U.S.

#### B. Argument:

The appellee-FHP-Doc:14 argue Statute of Limitations bar the claims in this case. The Statute of Limitations, are not barred in this case, on authority of Title 8 §95.051- the appellee-FHP successfully concealed the cause of action, and employed fraudulent means to achieve Concealment. Aforemention demonstrate that FHP-attest to producing [Costanzo] in appearance of State-PERC-Court-Further agree that Court documents process serve-would be forward by FHP- to Costanzo. Costanzo-verified by sworn statement, FHP-would be made known of residence as long as case continue-ref., appearance on Court hearings [attach] proof of service on Costanzo-is denied by FHP-as company hired by appellant serve on FHP summons for Costanzo-which is the service reference the current issue before the Court[ SEE Court-Record Case:6:18-cv-00193-Process Server, advise by-FHP-Counsel-[Cridlin], to return documents to District Court- which wouldn't be accepted on behalf of Costanzo. District Court- then refuse to extend-process-service. Therefore, appellant file Notice by [Newspaper-Florida-Michigan ref. case. [attach-is-verification]. Doe v. Cutter Biological, M.D. Fla. 1993, 813 F. Supp 1547.

#### IV

(1). The appellee-FHP-agent [Costanzo] is former resident, of Florida – where Assault occur. The original-complaint, is file at time of occurrence, which is before the running of the Statute[ §95.11] Although, service of process is return in [Instant-filing]- Process service , prior is complete.

This **instant case**, [same as-filed-No:6:05-cv-1806-]. The FHP-agent Costanzo, is not process serve 'in this action, this does not bar "cause of action" in this case. [Costanzo] is process-serve in case in original-filing - The case references - Fed.R.Civ.P. Rule 15. [FHP] agent- Costanzo-was a Florida resident-and move from the state. Dibble v. Jenson, 129 So.2d 162 (1961). Further-Costanzo cause- Assault on authority of the employer-FHP, clothed with authority of the state- while "**pretending**" to act in performance of official state duties. Therefore, FHP should not benefit from **Statute of Limitations** when their own agent wrongdoing, and absense from the state, caused delay, along with the District Courts delay, in the appellants filing of the cause of action. [FHP] contributed to case delay by filing of "un-necessary Motions" which delay by appeal. The conduct is after, -U.S. Court Appeal-Eleventh Cir.] declare favorable Mandate for appellant. The Statute of Limitations is tolled during time of a fraudulent concealment. The case in District Court-leaving Court docket-only when appeal. This petition-references appellee -[Motion to Dismiss- at [Doc:14].] [The case-and Complaint is file with-process service, prior to statute of limitations maturity. Butler University v. Bahssin, 892 So.2d 1087 (2004)]].

**Rule 56:** The **Request for Summary Judgment**-by FHP, the [FHP] have not provided evidence that genuine issue of material fact does-NOT exist. Moreover, there is a genuine issue of material fact as to whether appellant-suffer as a result of [FHP] breach of contractual obligations.

**Rule-56:**

Appellee-FHP summary judgment Motion-[12(b)6-claimed Res-Judicata, is "fatally defective" by the fact that appellee-FHP, made no effort to "Adduce any evidence", in the form of affidavits, or otherwise, to support its motion. Holding that [FHP] failure to support its motion with evidence tending to negate such exposure preclude the entry of summary judgement in its favor. Catrett v. Johns-Manville Sales Corp., 244 U.S. App. D.C. 160, 756 F. 2d 181 (1985).

#### IV.-CONT.

Further, APPELLANT- need not respond Until after [FHP] has met its burden of coming forth with proof of the absence of any genuine issues of material fact. *Id.* at 244 U.S. App. D.C. at 163, 756 F.2d at 184.

**C. acts on which the Petitioner Relies in the Record -Reason for WRIT**

- a. Sworn -Affidavits -Sworn Testimony's
- b. Recorded-911 call-testimony of injury after-Assault.
- c. Documents verifying statements.
- d. Clearly -Established Law-at time of Incident-Assault-Injurys

**D. PRAYERS FOR -Relief-Sought:**

- a. Overturn 'Order' of the District Court.
- b. **Order District Court to HOLD a hearing-which is advise by "Right-to-Suit" letters-EEOC; and by DOC:69-favorable Mandate-Eleventh Circuit Appeal-as the case Precedent.** Moreover-Order-Court Reporter, that the instructions of the "Mandate" is honored.
- c. Appellant-seek against all Appellee's-[FHP-Et.al]-re-instatement. [Back-pay-on- Discriminatory Termination. Front-pay-Make-whole relief-on Employment Discrimination.
- d. Appellant seek declaratory and Injunctive relief against the state officers in their individual capacities, as well as whole. Further,
- e. Correct-Retirement Information-Appellant work 14yrs ER-Dispatch-8Yrs Clerical Secretary-premise on Retaliation-wrong information-Input. Further, Tailor Declaratory, and Injunctive Relief so as to minimize interference, and in order to afford opportunity for voluntary compliance with the Judgment, and Thus does not conflict with the policies underlying Sovereign Immunity.

#### **DOC:19 ORDER- DISMISSAL**

##### **US DISTRICT COURT**

##### **APPELLANTS RESPONSE**

**DOC:19-FILED: 06/06-18 [PG.1-OF 2]**

District Court- paragraph (1). Appellant, fail to respond to objections which the court advise in the Order-30days-passed. **Pg.1.**

- A. Paragraph (2). The District Court, advise this is appellants [3] rd. suit based on employment- by [FHP].

#### IV.-CONT.

(b) 1. Based on FHP Motion-Claims barred by Statute-Limitations

(b)2. Barred by Res-Judicata-and OR Collateral-Estopple

(b) 3. Sovereign-Immunity-pg.[ 1] of Doc:19]

C. The Implied statement-that- Plaintiff-had a "Day in Court"

D. Motion -Granted- Dismiss-With Prejudice.

#### APPELLANTS -RESPONSE

A. Demonstrated above- Appellant file objections-which the filing is delayed that the district court changed appellants case number, while case was on appeal- Moreover-re-assigned case under new Judge. Therefore, objections were not timely-based on this action. Further, the appellant is not notified regarding the Magistrate report-Until after Order-dismissing file by the District Court.

B. The appellant, has ONE-SUIT based on FHP-Fl. Highway Patrol-et al. [with exception of case 19-10568-Eleventh Cir]. That originate from this case. -6:18-cv-00193. [Demonstrate above].

#### Claims are not barred by Statute Limitations-Demonstrated above.

The claims against the employer-FHP is tolled based on the tolling of the Statute of Limitations for the claims against the employee.

Aforemention, appellant demonstrated that she is entitled to equitable tolling, and provided good cause. Further, on the grounds of delay, is by error of the District Court, the case should be considered , and therefore not face dismissal. Fl. Statute of Limitations cited in support of are: F.S. §95.051, (a)(c)(g)(h) – Established above. Further, the Equitable Tolling Doctrine F.S. §95.051(2) stated above tolled the limitation period for an administrative appeal of a public employees' discharge.

Furthermore, there are five requirements design to protect a **Pro Se, litigant:** (1). Process issued and served-(2). Notice of Motion to dismiss Complaint (3). Opportunity to submit written memorandum, in opposition to the Motion (4). In event of dismissal, a statement, on grounds therefor.(5) Opportunity to Amend Complaint, to overcome deficiency. Armstrong v Rushing, 352 F2d. 836 (1965). The Pro Se Complaint, prone to more errors than ones represented by Counsel. Haines v. Kerner, 404 US 519, 520-21 (1972). This case, is complex, Doc:69 is mandated as a guideline. District Court improperly dismiss-and case suffer delay, Up-to statutory limitations.

#### IV.-CONT

Noll v. Carlson, 809 F2d 1448 (1987). the civil rights action should be reverse, for the courts failure on-procedural requirements. The District Court failed to comply. Although, all parties are prior serve, in the 'instant' complaint, appellee- Costanzo, was not serve, [demonstrated above] (1).The District Court, denied Extension after process, is returned Un-served. (2) Appellant, did not receive-Notice. (3) There was not an opportunity to submit memorandum in opposition to the Motion. (4) there is-no statement, on grounds thereof-except after dismissal Below-Doc:19-Order. (5). Opportunity to amend is not there, the complaint is Dismiss, and case closed.

#### B-(2): Res-Judicata -Collateral -Estoppel:

- a. Demonstrated above: Res-Judicata- violate **Due Process**, when appellant fail to achieve on appeals after repeat dismissals of case, and complaint, because of denial by District Court, to honor Mandated-Order-[Doc:69]. The "Order" is precedent for this case. **The issue** Pro Se, appellant, is-not represented by Counsel, during the earlier proceedings. Evan v. Chater, 110 F.3d at 1483 (1997). Therefore, after, return Post-Appeal, in this instant-case, the complaint should not-have dismiss-without opportunity to amend. Fed.R.Civ.P. Rule 15(a). Foman v. Davis, 371 US 178, 182 (1962).Unless determine complaint ... be cured. Wherefore, based on aforesaid, the District Court should not make assumption-that with favorable Mandate appellant, could-not demonstrate-the entitling relief. [Doc:69]. The Error occur at dismissal, when Petition is file, -"Title-of"-new-case. After-[FHP] filed Motion to Dismiss, at-**Doc14**. FHP- had knowledge-that the case is (1). Not-new (2). Extensive court-time in case-and controversy not settle (3) dismissal -Open-opportunity on mistake of Pro Se-litigant (4) And denial of Due Process, because [Title]- appear file after Statutory period. This case is **filed timely.**, Although, a favorable mandate, A Pro-Se , litigant before the Court has limited knowledge of law, Unlike trained Counsel. Pro Se, litigants are dis-respected. [Doc:69] has a "cause of action" acknowledge by appellate court-However, as Pro Se litigant, denial of the fundamental constitutional right-of Court- access, block case, and violate Title 28 US Code §§1654, and Article, (1) § 21 Fl. Constitution. Evan v. Chater, 110 F.3d at (1997)., the "right to have a "Day" in Court. Const. Amend. 14. "Generally, District Court err in dismissing a pro se- complaint, for failure to state a claim under Rule **12(b)6** without giving opportunity to amend." Davis v. District of Columbia 158 F.3d 1342, 1349 (1998). Caveat-on 12(b)6.

#### IV.-CONT

Where a trial court dismiss a claim sua sponte-under 12(b)6 without affording an opportunity to replead, remand is appropriate unless claimant ... win relief. Wherefore, a remand, is request. District Court should only apply Res-Judicata when "all" requisite conditions are met. Res-Judicata is not applicable, when the prior determination is not final, FHP-Doc:14 **pg.12**, FHP converse on the dismissal of the Eleventh Cir. In [2017], and **fail to acknowledge that the issue before the [Eleventh Cir.] was appeal**- Not a subsequent related suit as worded in FHP- Motion for Dismissal. Pp12 of [FHP] Doc:14. Further, FHP- fail to include that after that-dismissal, appellant appeal to this US Supreme Court, which - documents can verify. Furthermore, FHP-fail-to acknowledge the case not chosen for review, as most Informal-Pauperism cases are not. FHP-Doc:14-pg.12, FHP-claims Collateral Estoppel, for a case NON related to this one. The issues of the case FHP claims has not been litigated, nothing to do with this case. Further, no judgments in another case, which this case is party to suit-Exception- Current case before Eleventh Cir. Appeals Court, which has not yet been determined 18-10568, Wherefore, FHP allegations are not accurate. **Doc:14.**

**b-(2).** Dismissal-reference: PLRA-Prison Litigation Reform-Act-1995.

The appellants-Complaint, is file under Informal-Pauperism-and--- request District Court to appoint Counsel. 28 USC § 1915 (a) 1 with sworn affidavit-to confirm Income. The *Informal Pauperism*-that appellant, could not afford filing-fees. However, District Court dismiss under 28 USC § 1915e-2 **PLRA** contain several provisions that require district courts to screen lawsuits filed by prisoners, and dismiss those suits sua sponte under certain circumstances among these provisions is section 804(a)(5), which is **codified as part of the Forma Pauperis Statute** at 28 U.S.C. § 1915 (e))(2). District Court, aware of the requirement of USC §1915 e-2, purposefully dismiss appellants case, when it known case did-not fit, '§1915 e-2, Further, it is known appellant, is not a prisoner, and case, well-over (14yrs) with a continual history of controversy.

Moreover, same judge-from case start-with exception of this instant complaint. Wherefore, this is an deliberate-Injustice. District Court, under §1915(e), is required to dismiss an *in forma pauperis* complaint that fails to state a claim... Barren v. Hamilton, 152 F.3d 1193,1194 (1998). [there was not a failure to state a claim in a mandated order]. This complaint, is filed after return post-appeal, [same complaint, **prior**-appeal, previously before District Court- [FHP] Doc:14 is meant to confuse.

#### IV.-CONT

A judgement was not on the Merits, by this Court, afore said, once on appeal to this US Supreme Court, the case simply is **not chosen for review**. The complaint, *AFTER* post-appeal is an error titled “New-Case.” In respect to dismissal, once filed. In accordance with Fed. R. Civ.P. Rule **15-relations back**]. The complaint- is entitle to an amendment, that is Not granted.

**INFORMAL-PAUPERIS: demonstrated:** This instant complaint, before the Court, is file **and the appellant request *Informa-pauperis* to proceed.** The District Court, denied the request, and applied *Franklin v. Murphy*, 745 F.2d 1221 (1984). The complaint had a defect-“failure to state a claim” and could be properly dismiss under §1915(d). prior to service of process, and without opportunity to amend. The “issue” **§1915(d).** grants-dismissal. However, **FHP-Motion to dismiss is under 12(b)6.** The 12(b)6, has a caveat unlike 1915(d) which appellant is not notified, and opportunity to amend is-not given. Moreover, appellants request is for 1915(a)1 -and (e-1) counsel-representation, which is mis-construed.

**Discussion:** Aforemention: District Court, did not intend to grant appellant Due Process-of Court access. Examine here: District Court, may not dismiss an action before process is issued and served, and without giving plaintiff, notice that the Court intends to dismiss, and an opportunity to oppose it. Statement on grounds and opportunity to amend. *Potter v. McCall*, 433 F.2d 1087, 1088, (1970). There is no mention of subject-matter after fourteen yrs., case history, *Franklin I*, 622 F.2d at 1342. For IFP-Complaints, the statute authorizes dismissal. Further, under Rule 12(b)6, the opportunity to amend is accorded before the “Motion” is ruled on. *Wherefore*, clearly District Court is not a neutral party, its-privy one side of the conflict. \*The opinions of *Franklin*, and *Noll*, are offset by *Neitzke v Williams*, 490 U.S. 319 (1989). *Noll*, incorrect for extending procedural protections, *Franklin*, incorrect, for granting Complaints, whose only defect is ‘failure to state claim’ be characterized as frivolous, and dismiss under 1915(d). The Supreme Court: A complaint is not necessarily frivolous under 1915(d).

#### **The District Court,**

The District Court is referenced in this appeal-Petition, which bring case before the Courts. However., [See: below]

#### **The Eleventh Circuit Court-of Appeals**

Is the **last Court to Review**-\*\*\*the case.-though an Error occur- which the Eleventh Cir Court responded to the **wrong -Petition**. This error, is possibly because [three-Amended-petitions are file-[See-attach]. **Wherefore, District Court Actions-are demonstrated.**\*\*\*



#### IV.-CONT

##### **b.(3). Sovereign Immunity:**

Sovereign-Immunity, is distinct from statutory immunity, provided by its own terms. By its own term, applies only to state officer and employees, sued in their personal capacities. *Hanna v. Capital Region Mental Health Center* 74 Conn. App. 264,268, 812 A.2d 95 (2002). "It is well settle the defense of **Sovereign Immunity** can be raise on -claims brought directly against the state-OR- state employee's, acting in thier official capacities. defense of **Statutory Immunity**: can be raised for claims brought against state employees, acting in their individual capacities." *Mercer v. Strange*, 96 Conn. App. 123, 128, 899 A.2d 683 (2006).

**Sovereign-Immunity:** In this case (a). Both agents, Costanzo and Brown were employees of Fl. Highway Patrol, at time of incidents, and assault . Conduct of both agents were while clothed with the authority of the state and authorize, and latter ratified by Florida Highway Patrol. Therefore, Costanzo, Brown, and [FHP] are officials responsible for enforcing Unconstitutional Policy. Further, the conduct of FHP-et.al, ran afoul of appellants constitutional rights. The appellant, also object to the Magistrates proposed findings and recommendations in regard to claims for relief [against the- individual defendants in their official capacities]. District Court- [Doc:19 state-appellant- had a trial. Appellant, never-had day in Court. Denied-Access.

The appellee-**FHP** claim that Appellants case, is barred by the doctrine of sovereign immunity is not accurate because the "Orders" of the District Court, denying equal protection of the law in violation of the fundamental privileges of the United States Constitution, could therefore grant Sovereign Immunity, and the Sovereign Immunity exception does not apply. "No person shall be denied the equal protection of the law nor be subjected to segregation or discrimination in the exercise or enjoyment of his/her civil rights because of race, sex, disability.

The appellant, request declaratory and injunctive relief based on substantial claims, that the state and its officers violate appellants constitutional rights.

**C. Motion-Granted** [Doc:14] District Court Decision should be reversed.

CONT:

**D/E. Dismissal -With Prejudice:** District Court Dismiss appellants lawsuit with prejudice. The dismissal base on the Merits-. The Pro Se-appellant, file complaint Post-Appeal, is dismissed, because complaint-allege- [New-Lawsuit], and that appellant, is -without counsel-erred in filing the improper complaint-post-appeal. [Although, appellant request counsel-that case is complex]-It was Denied. The case should not have dismiss- Claims and procedure is outlined. The District Court **Violated the Doctrine-of the Law- of the Case.** [ **The Doctrine** is that those points of law adjudicated in a former appeal are binding in order to promote stability of judicial decisions , and to avoid piecemeal litigation]. Strazzulla Hendrick, 177 So.2d 1 (1965); Bakker v. First Federal Savings & Loan Ass'n of Hammonton, 575 So. 2d 222, 224 (1991). District Ct., did not wish to-honor-the Mandate, and Pro Se- appellant- was Un-represented unaware that [new-case] couldn't proceed in same case.] Not provide opportunity to amend-aforsaid.

The appellant, because case is complex, pleaded to receive Counsel, the District Court, repeatedly denied . The [FHP] knowing the appellant is Pro Se, file- a demurrer- a challenge to the [New-Complaint] based on Res-Judicata-Knowledge case is not [New], from this- the case is said to be litigated, and Res-Judicata, bars the action. This statement, is NOT Res-judicata. Res-Judicata, bar re-opening of original dispute, and future action which were or could have been raised in the original dispute. Res-Judicata doesn't apply, " because the claims-could not have been brought-in prior, lawsuit, that District Court, denies the appellant Court-access.

**Standard of Review:** De Novo- On A Motion to Dismiss-An Informal-Pauperism Complaint Under Rule 12(b) 6.

**THE ELEVENTH CIRCUIT -ORDER- IS AN- ERROR-IN THE INSTANT CASE:18-12956-AND 18-13227.. SEE APPENDIX-THE APPELLANTS PETITION IS FILE 12/30/2020 THE ORDER-MANDATE OF THE ELEVENTH CIRCUIT-IS DETERMINE [2019] TO THE WRONG PETITION?. SEE-ATTACH. JUDGMENT-WRONG DATE\***

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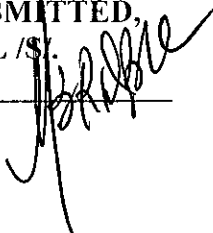
## CONCLUSION

The Fourteenth Amendment, [ XIV] to the United States Constitution is at the center of the promise of America, if your born in the United States your a citizen, and under the law everyone in America gets equal protection. No one can take this away without Due Process, that's your day in Court. Therefore, the XIV- Amendment-basically says-"were-all equal players on the same-team". Simple as that sounds its revolutionary, its what the American dream is made of. Therefore, why is it that Renee Denise Bell, a U.S. citizen, denied the right. This case was upheld in the United States District Court, Middle District of Florida a period of fourteen years, even with favorable Mandate as guide for this case. The appellant, "have-not had" a day in Court. A public employee, a United States citizen, - law abiding citizen, almost thirty-yrs., service in state government- entitled to- though cannot receive a hearing, after wrongfully accused. "Wherefore, is it that indigent individuals, are not entitle to same constitutional protections, as others.

- To satisfy **Article III**, redress & [Nominal-damage] could alleviate appellant injuries, among other equitable restitution of benefits, for past loss, and making whole, and preventing an ongoing, future harm. Appellant, request attorneys fees and cost, which is at initial- case onset. There is Mis-carriage of justice in the case, that simply cannot be fixed later, or any other way.
- Reconsider, and reverse a previous ruling [Doc:69] that was the "Law" of the case, [Re-Instate] to be honored by the District Court, that a manifest injustice will result, from a strict adherence to the previous pronouncement premise on an error of [ New-Case] after the case returned Post-Appeal.
- Wherefore, appellant, is before this Court, on request for review, which is generally-granted only if case raises an issue of significant **(1).public interest**, or **(2).jurisprudential importance**, or **(3).conflicts with controlling precedent**. The appellants, case involve all elements. Wherefore appellant, can only request of the Court, for review, to be heard, fairly present its claims. Ross v. Moffitt, 615-617, (1974).

**THE PETITION FOR : WRIT OF CERTIORARI SHOULD BE GRANTED.**

RESPECTFULLY SUBMITTED,  
RENEE DENISE BELL /S.



5 / 2 / 2021. DATE:

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