No. 20-8474 ORIGINAL

In The

Supreme Court of The United States

Glen Plourde,

Petitioner

v.

STATE OF MAINE; WILLIAM ANDERSON, Penobscot County Superior Court Justice; CHARLES F. BUDD JR., Newport District Court Judge; PENOBSCOT COUNTY DISTRICT ATTORNEY'S OFFICE, MARIANNE LYNCH, Penobscot County District Attorney; STEPHEN BURLOCK, Penobscot County Assistant District Attorney; PHILIP MOHLAR, Attorney at Law; DICK HARTLEY, Attorney at Law

Respondents

On Petition For Writ Of Certiorari To The First Circuit Court of Appeals

PETITION FOR A WRIT OF CERTIORARI

Glen Plourde
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207-659-2595

QUESTIONS PRESENTED

1. Does the continual refusal of the Federal Court System (District and Circuit Court of Appeals) to address the judicially noticeable fact that the Petitioner has been Tortured and has suffered lasting injury as a result, as pled in his complaint(s) and associated pleadings, violate the Plaintiff's United States Constitutional Rights and/or his International Rights under The Geneva Conventions against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment?

   The Petitioner notes that the Federal Courts are charged with the issue of Torture as it is a Federal Crime as well as an International Crime.

2. Does the continual and continued disenfranchisement of the Petitioner by the Federal Court System (District and Circuit Court of Appeals), as irrefutably evidenced in the Petitioner's Federal Court Cases, violate the Petitioner's Constitutional Rights or other Rights conferred upon the Petitioner?

3. Does the well-evidenced fact that the Federal District Court of Maine's decision in this case, and the First Circuit's subsequent upholding of that decision, is in conflict with multiple instances of United States Supreme Court case law designed to protect *Pro Se* litigants from abuse by The Courts mean that the Federal Courts have abused their discretion?

LIST OF PARTIES

[X] 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 judgment is the subject of this petition is as follows:

RELATED CASES

Plourde v. State of Maine, et al, No. 20-CV-00149, U.S. District Court for the District of Maine. Judgement entered 05/22/20.

Plourde v. State of Maine, et al, No. 20–1611, U.S. Court of Appeals for the First Circuit. Judgement entered 11/12/20. Judgement on Petition for Rehearing entered 01/25/21.

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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

[X] For cases from **federal courts**:

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

[X] reported at 20-1611 (U.S. First Circuit); 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

[X] reported at 1:20-CV-00149-LEW (U.S. Maine); or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

[ ] For cases from **state courts**:

The opinion of the highest state court to review the merits appears 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

[x] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 11/12/20.

[ ] No petition for rehearing was timely filed in my case.

[X] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: 01/25/21, and a copy of the order denying rehearing appears at Appendix C.

[X] An extension of time to file the petition for a writ of certiorari was granted to and including 06/24/21 (date) on 03/19/20 (date) ~~in Application No. A~~. "Order" (Order List 589 U.S.) Deadline to file for Cert. Extended to 150 days.

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 thereafter 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_____.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. **The Fourth Amendment to the United States Constitution** - 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.

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

3. **The Eighth Amendment to the United States Constitution** - Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

4. **The Ninth Amendment to the United States Constitution** - The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

5. **18 USC Chapter 113C** - Federal Torture Statutes. **Included as Appendix D** due to length.

6. **The Geneva Conventions against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment, Part 1** – Adopted and opened for signature, ratification and accession by General Assembly resolution 39/46 of 10 December 1984; entry into force 26 June 1987, in accordance with article 27(1). **Included as Appendix E** due to length.

STATEMENT OF THE CASE

Petitioner was prosecuted in case PENDC-CR-16-20309 by respondents Penobscot County District Attorney Marianne Lynch ("DA Lynch") and Penobscot County Assistant District Attorney Stephen Burlock ("ADA Burlock") on behalf of The State of Maine over the period of time spanning 06/10/16 – 04/26/17.

Petitioner retained the services of respondent Philip Mohlar Esq. ("Mohlar") on or about 07/01/16 as his defense counsel after contacting numerous (if not all) defense attorneys in the Farmington/Skowhegan area (his local area at that time) and finding that all of those attorneys would not accept his case (""Complaint",", ¶22 – 24).

Contemporaneously, the alleged victim in this case, the Petitioner's father, who had told the arresting officer he did not want the Petitioner arrested in the first place ("Complaint", ¶16), retained the services of Attorney Dick Hartley Esq. ("Hartley") of Bangor, Maine in an effort to try to convince the State of Maine to drop the criminal charge against the Petitioner ("Complaint", ¶25, exhibit B).

On or about 07/27/16, the Petitioner was told by Mohlar that he had spoken to both Hartley and DA Lynch and was made aware of the fact that the alleged victim in this case retained by Hartley did not want his son prosecuted by The State of Maine. Furthermore, the Petitioner was told that the alleged victim and his brother (a witness) had both stated their refusal to testify against the Petitioner to Hartley, who had communicated all of this information to both Mohlar and DA

Lynch. Mohlar told the Petitioner that the case should therefore be easily disposed of in the Petitioner's favor ("Complaint", ¶25, exhibit B).

However, instead of dropping the charge against the Petitioner at that time due to the lack of a witness and the fact that the alleged victim would refuse to testify as he did not even want the Petitioner prosecuted, as the Petitioner assets that any reasonable District Attorney would do, DA Lynch and the Penobscot County District Attorney's Office, including ADA Burlock, continued to prosecute the Petitioner on behalf of The State of Maine for an additional 9 months until 04/26/17, when the case was dismissed for "Lack of Witness" ("Complaint", ¶25, exhibit B).

Both Mohlar, who had been retained by the Petitioner to represent him as his defense counsel, and Hartley, who had been retained by the alleged victim to convey the fact, to DA Lynch and ADA Burlock, that he did not want the Petitioner prosecuted nor would he or his brother testify against the Petitioner, were completely ineffectual at having this case dismissed for "Lack of Witness" as it clearly should have been when this information was conveyed to the Penobscot County DA's Office on or about 07/27/16 ("Complaint", ¶¶25 – 32, exhibit B).

In fact, Mohlar seemed to be enabling the prosecution of the Petitioner as he continually kept moving for continuation of the Petitioner's court dates without the Petitioner's knowledge or permission and thus dragging out PENDC-CR-16-20309 for his own personal reasons, citing things such as "he had to attend his son's little

league game" , "he was taking his son to college", or that he "had a previous vacation scheduled for the hearing date ("Complaint", ¶¶39 – 41, exhibits C, D, E).

The Petitioner became extremely frustrated with the situation and demanded to attend his next hearing date, scheduled for 09/28/16. Mohlar strongly cautioned the Petitioner not to do this and told him to stay away from the courthouse. When the Petitioner asked if there was any reason he could not attend the 09/28/16 court hearing, Mohlar reluctantly said "no" and allowed him to attend the 09/28/16 court hearing ("Complaint", ¶¶42 – 43, exhibit F).

Before the 09/28/16 court hearing began, the Petitioner was instructed and strongly cautioned by Mohlar not to enter the courtroom at any time or under any circumstances and just sit, alone and by himself, in the lobby. Petitioner asked if he could speak with DA Lynch himself regarding his situation as he was frustrated with Mohlar's lack of performance. Mohlar looked extremely uncomfortable and asked the Petitioner what he was planning on saying to her, and the Petitioner stated to Mohlar that he wished to state his case to DA Lynch. Mohlar said he would see if such a talk could be facilitated and returned shortly thereafter and said that DA Lynch was unable to speak with the Petitioner ("Complaint", ¶¶42 – 44, exhibit F).

After the 09/28/16 court hearing, Petitioner was told by Mohlar that a plea agreement had been reached with DA Lynch that would involve the Petitioner agreeing to a PFA order with the alleged victim and involve some counseling sessions. The details regarding the counseling sessions were unspecified and thus

the Petitioner could take no proactive measures towards fulfilling the "counseling requirement" of the Plea Agreement until further details were received by DA Lynch two months later on 11/30/16 ("Complaint", ¶45, exhibit F).

On or about 11/02/16 the Petitioner agreed to a 2-year PFA order with the alleged victim in order to fulfill the only part of the plea agreement he was able to at that time ("Complaint", ¶50).

Between the time spanning approximately 07/01/16 – 10/30/16 the Petitioner grew increasingly frustrated with Mohlar's lack of progress, continued continuations of the Petitioner's court hearings without the Petitioner's knowledge or consent, and refusals to allow the Petitioner to attend his court hearings. Petitioner made numerous calls to Mohlar over that time. Mohlar almost never took his calls and almost never called him back. Petitioner furthermore visited Mohlar's office without a scheduled appointment at least three times in that timeframe and Mohlar never was available to speak with the Petitioner ("Complaint", ¶¶46 – 49, exhibit C).

On or about 10/30/16 the Petitioner was contacted by Mohlar who stated to the Petitioner that he had exhausted his retainer and no longer wished to represent him. The Petitioner had no objection due to Mohlar's performance as described above ("Complaint", ¶52, exhibit C). Mohlar therefore submitted a withdrawal of counsel form the following day, 10/31/16 ("Complaint", ¶53, exhibit G).

Approximately three years later, on 05/06/19, Mohlar was appointed by The Capital Judicial Center to be his Court-Appointed Attorney in criminal matters

KENDC-CR-18-20983 and KENDC-CR-18-21183, both of which were eventually dismissed. Mohlar has stated to That Court that he was "not comfortable accepting an appointment for these cases" and specifically that "Mr. Plourde... ultimately fired me" ("Complaint", ¶54 and exhibit H).

This statement to That Court is in direct contradiction to the facts of what verifiably happened as is clear from a comparison of both exhibits G and exhibits H ("Complaint", ¶¶55 – 56 and exhibits G, H).

On or about 11/02/16 the Petitioner filed a 6-page paper with Maine State Senator Susan Collins, Maine State Senator Angus King, The Maine Human Rights Commission, and The Maine State District Attorney's Office describing the fact that he had been Tortured during his 2012 – 2013 Employment at United Technologies Hamilton Sundstrand and asking for their assistance with this matter ("Complaint", exhibit AA).

On the morning of the 11/30/16 hearing, the Petitioner met with DA Lynch "off the record" in her office and related some of the Torture he had been the victim of to her, as well as supplied her with a copy of the 11/02/16 paper he had written and distributed to The Maine State Government Offices, including the Maine State District Attorney's Office, described above ("Complaint", ¶¶61 – 62, exhibits AA, K).

Later during that 11/30/16 hearing a plea agreement was reached between the Petitioner and DA Lynch in which the Petitioner agreed to attend, in good-faith, four "family counseling" sessions, after which time DA Lynch would dismiss the case PENDC-CR-16-20309 against him ("Complaint", exhibit J Page 3).

However, DA Lynch was rather imprecise in her "success criteria" for this counseling and reserved the right to find it inadequate under any circumstance. This stipulation was supported and enforced by the presiding Judge, Judge Charles Budd of Newport District Court. DA Lynch also continually insisted that the Petitioner see a "family counselor" from "The State Forensic Services Team" or "Acadia Hospital", both agencies the Petitioner found unpalatable as "The State Forensic Services Team" works for The State of Maine, who was prosecuting the Petitioner in this case, and the Petitioner therefore felt a more impartial "family counselor" would be appropriate. Furthermore, the Petitioner has had a terrifiably horrible experience at Acadia Hospital prior to the 11/30/16 hearing in which he was both intentionally abused, harassed and his Rights to informed consent or to refuse treatment were not respected ("Complaint", ¶¶65 – 66, exhibit J).

DA Lynch continually asked Judge Charles Budd to Order a Title 15 Forensic Examination of the Petitioner during the 11/30/16 hearing, in what appeared to be an attempt to remove or modify the plea agreement she had agreed to. Whether Judge Budd actually ordered a Title 15 Forensic Examination of the Petitioner or not is unclear and in dispute as Judge Budd has contradicted himself by stating during the 11/30/16 hearing that he was both ordering a Title 15 Forensic Examination and that he was not ordering a Title 15 Forensic Examination of the Petitioner ("Complaint", ¶¶65 – 66, exhibit J, esp. exhibit J Pages 29 – 30, 35).

Due to a series of highly unfortunate events that include, but are not limited to, an inability to locate a "family counselor" in the Petitioner's immediate area,

destruction of the Petitioner's vehicle in a traffic accident on or about 12/23/16, lack of resources with which to purchase a new vehicle, a hospitalization, Petitioner's apartment being "condemned" by the town of Skowhegan (his town of residence at that time) while he was in the hospital and his associated and necessary search for a new apartment thereafter, the Petitioner was unable to attend any "family counseling" sessions prior to the next hearing date of 03/22/17 ("Complaint", ¶70).

ADA Burlock was present on behalf of DA Lynch for the 03/22/17 hearing. ADA Burlock asked for the results of the Title 15 Forensic Evaluation and there was confusion among both ADA Burlock and Judge Charles Budd as to whether or not one had been ordered ("Complaint", ¶¶72 – 73, exhibit M Pages 1 – 3, 10, 12, 13).

Additionally, ADA Burlock claimed to have DA Lynch's notes which he claimed stated that a Title 15 Forensic Examination had been ordered and made no mention of any Plea Agreement whatsoever ("Complaint", ¶83, exhibit M).

Furthermore, Judge Budd denied being the Judge at the 11/30/16 hearing, although the record states that he clearly was, and instead implicated Maine State Superior Court Justice William Anderson as having been the presiding Judge and/or ordering a Title 15 Forensic Evaluation of the Petitioner at the 11/30/16 hearing ("Complaint", ¶74, exhibit M page 12).

ADA Burlock stated his notes reflected the fact that Judge Budd was the presiding Judge at the 11/30/16 hearing ("Complaint", ¶76, exhibit M Page 12), although when it was denied by Judge Budd ("Complaint", ¶74, exhibit M page 12),

ADA Burlock quickly did an about-face and said that his notes did in-fact indicate that it was Maine State Superior Court Justice William Anderson presiding over the 11/30/16 hearing (and possibly ordering a Title 15 Forensic Examination of the Petitioner) ("Complaint", ¶76, exhibit M Pages 12 – 13).

The 03/22/17 hearing was then continued to 04/26/17 to allow for "the confusion" as described above to be settled. ADA Burlock was to speak with DA Lynch regarding the "unknown Plea Agreement" not contained in her notes.

The Petitioner immediately recognized that he was being subject to nefarious activity as it is impossible to believe that the Penobscot County District Attorney's Office is so incompetent such that DA Lynch's notes did not contain any mention of any plea agreement reached on 11/30/16, and stated only that a Title 15 Forensic Evaluation of the Petitioner had been ordered.

It is also impossible to believe that The Newport District Court is so incompetent to the extent that it had "mistaken" the presiding Judge at the 11/30/16 hearing as Justice William Anderson, as Judge Budd stated the courts' notes said. Furthermore, Petitioner finds it impossible to believe that Judge Budd's own notes stated that Justice William Anderson was the presiding judge on 11/30/16, as Judge Budd said they did, as clearly Judge Budd was the presiding Judge as is evident from the Official 11/30/16 hearing transcripts, both audio and written. Finally, the Petitioner found it highly suspicious that ADA Burlock indicated that DA Lynch's notes properly identified Judge Budd as the presiding Judge on 11/30/16, although after Judge Budd denied that fact, ADA Burlock

immediately did an about-face and agreed that DA Lynch's notes did in-fact identify Maine State Superior Court Justice William Anderson as the presiding judge during the 11/30/16 hearing ("Complaint", exhibit M).

None of the above Case Background is in dispute, it is Public Knowledge, and it is readily verifiable by inspection of both the 11/30/16 and 03/22/17 PENDC-CR-16-20309 Trial Transcripts ("Complaint", exhibit J and M, respectively).

The Petitioner was justifiably alarmed by this nefarious behavior and immediately ordered both the audio and written transcripts of both the 11/30/16 and 03/22/17 hearings in order to prove both that there was an agreed-upon plea agreement in place with DA Lynch and that Judge Budd was in fact the presiding judge on 11/30/16, not Maine State Superior Court Justice Anderson ("Complaint", exhibit J).

On 04/26/17 the Petitioner was met by DA Lynch, prior to the start of court, and was handed a dismissal that indicated PENDC-CR-16-20309 had been dismissed by The State of Maine due to "Witness Unavailable" ("Complaint", ¶89, exhibit N).

It is clear from the Facts of the Petitioner's Complaint and This Case that "Witness Unavailable" had been the fact since approximately 07/27/16 ("Complaint", ¶¶25 – 28, 38, exhibit B) and that NEWDC-CR-16-20309 should have been rightfully and justifiably dropped at that time. The Petitioner has reminded Marianne Lynch of that fact in his first three points (1 – 3) in a "Motion to Dismiss" filed by the Petitioner with The Court on 04/18/17 ("Complaint", exhibit O).

However, The State of Maine continued to prosecute the Petitioner an additional 9 months, at the expense of the Petitioner and his family and much to the benefit, both gain and profit, of the Respondents in this case ("Complaint", ¶¶90 – 100, exhibit O).

The *Pro Se* Petitioner therefore filed his *Pro Se* Complaint in Federal Court (1:20-CV-00149-LEW) against the defendants on 04/24/20 for needlessly prolonging his case 9 months and forcing him to attend "counseling sessions" (possibly a Title 15 examination), since "Witness Unavailable" had been the known facts of this case since approximately 07/27/16. The Counts against the defendants included, *inter alia*, 42 U.S.C. § 1983 violations of the Petitioner's 4th Amendment Rights to protection against malicious prosecution and 42 U.S.C. § 1983 violations of the Petitioner's 5th Amendment Rights to both substantive and procedural due process.

Petitioner's Complaint also sought redress for DA Lynch having ignored the Petitioner's confiding to her the fact(s) (and some details thereof) of the Torture he had endured, thus violating The Geneva Conventions Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.

Judge Lance E. Walker of the District Court of Maine dismissed the Petitioner's complaint less than a month later, prior to service, on 05/22/20, stating *inter alia* that the well-pled and well-evidenced facts of the Plaintiff's complaint "cannot reasonably be construed to assert a substantial federal claim".

Petitioner appealed to the U.S. Court of Appeals for the First Circuit, who upheld Judge Walker's dismissal on 11/12/20 and denied rehearing on 01/25/21.

REASONS FOR GRANTING THE WRIT

1. **Torture is of exceptional importance to The United States Supreme Court. Petitioner has made Penobscot County District Attorney Marianne Lynch aware in this case, and The Maine Court System and The Federal Court System (Department of Justice) continually aware in numerous cases, of the Fact that he has been Tortured, and has provided some details, and DA Lynch, The Maine Court System, and the Federal Court System have done nothing to help the Petitioner whatsoever, *they have not even responded in any way whatsoever,* a violation of The United Nations Geneva Conventions against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as well as numerous articles and amendments of The United States' own Constitution. Such continual and intentional failure by The Maine State and Federal Courts to address the fact that Petitioner has been verifiably Tortured poses serious questions and concerns regarding The United States' commitment to honor its International Obligations to The United Nations and The Geneva Conventions as well as The United States' commitment to respect its own Constitutional Laws and its own citizens' Human Rights.**

Petitioner has made DA Lynch aware in this case, on the morning of 11/30/16, that he had been tortured and has provided to her some details and documentation regarding that Torture ("Complaint", ¶¶61 – 62, exhibits AA, K), in an effort to solicit The State of Maine Attorney General's Office and/or The Maine State Court System's assistance with this very real and very grievous problem.

Instead of the sympathy, assistance, and/or recommendation to an agency that could help him, action(s) that the Petitioner feels he rightfully could and should have expected, DA Lynch looked extremely uncomfortable and ended the meeting immediately thereafter. "Out of sight, Out of mind" appeared to be DA Lynch's *Modus Operandi* when it came to Torture, and she made no attempts to hide this Fact. This is a violation of The Geneva Conventions against Torture as well as the Petitioner's Constitutional Rights.

The State and Federal Courts have also continually and intentionally erred in overlooking the fact that the Petitioner has been Tortured as described extensively in his Court Documentation, including this case. Again, this is a violation of The Geneva Conventions against Torture as well as the Petitioner's Constitutional Rights.

Not all references will be listed here as they are copious although the Petitioner will list some of the numerous ***Judicially Noticeable*** places where the Petitioner has described the Fact that he has been Tortured to The Courts, including The Federal Courts who have jurisdiction over both Torture and International Affairs (Ref. "First Circuit Court of Appeals Appellants Brief 20-1611" pages 2, 7, 14, 27 – 29, 29 – 32, 32 – 33, 38 – 39; "Motion for Court-Appointed Attorney" 11/27/20 ¶5; "Second Motion for Court-Appointed Attorney" 12/08/20 ¶¶5, 8, 9; "Combined Petition for Rehearing En Banc and Panel Rehearing" pages i – ii, 2 – 10, 16 – 17; "Complaint", ¶¶61 – 62, exhibits AA, K), (Ref. "First Circuit Court of Appeals Appellants Brief 20–1610" pages 3, 22; "Motion for Court-Appointed Attorney" 11/27/20 ¶5; "Second Motion for Court-Appointed Attorney" 12/08/20 ¶¶5, 8, 9; "Complaint", Exhibit N), (Ref. First Circuit Court of Appeals Appellants Brief 20-1777 "Motion for Court-Appointed Attorney" 11/27/20 ¶5; "Second Motion for Court-Appointed Attorney" 12/08/20 ¶¶5, 8, 9; "Combined Petition for Rehearing En Banc and Panel Rehearing" pages i – iv, 5, 16 – 18), (Ref. "First Circuit Court of Appeals Appellants Brief 20-2166" pages 2, 6, 15, 28, 44, 49 – 55; "Motion for Court-Appointed Attorney" 12/31/20" ¶¶5, 8, 9), (Ref. Maine State Supreme Court

Appellant's Brief KEN-19-514), (Ref. Maine State Supreme Court Appellant's Brief KEN-18-479), (Ref. Maine State Supreme Court Appellant's Brief PEN-18-458), (Ref. Maine State Supreme Court Appellant's Brief KEN-20-217), and The United States Court System has continually erred in continually and intentionally overlooking the highly-grievous Fact that the Petitioner has been verifiably Tortured and in not responding to it or otherwise providing the Petitioner with any assistance whatsoever, and has thus necessarily added themselves to the list of State and Federal Government Agencies who are in violation of both Federal, Constitutional, and International Law (Ref. "Eighth and Ninth Amendments to the United States Constitution"; "USC Chapter 113C – Torture" Appendix D; "Geneva Conventions Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment", Appendix E).

The Courts' continual decision to overlook and not address the fact that the Petitioner has been tortured therefore conflicts with The United States Constitution (Ref. "Eighth and Ninth Amendments to the United States Constitution"), U.S. Law ("USC Chapter 113C – Torture", Appendix D), and International Law ("Geneva Conventions Against Torture", Appendix E). Furthermore, Torture is of exceptional importance as it is both a heinous Federal and International Crime that is, in some cases, punishable by death and/or International Sanctions and **The Courts' failure to address the issue, *much less offer the Petitioner a response of any kind***, raises serious doubts as to The United States' commitment to honor both its own Constitution and Laws as well as its agreed-upon International Obligations.

The Petitioner has made The Maine State Supreme Court aware of the Fact that he has been tortured *in every Appeal he has written to them* (Ref. citations above), and likewise has made The United States First Circuit Court of Appeals aware of the Fact that he has been tortured *in every Appeal he has written to them* (Ref. citations above), and has made The Courts aware that he has made numerous State and Federal Agencies aware that he has been Tortured (Ref. citations above, all), and none of these numerous State and Federal Agencies, The Maine State Court System, or The Federal Court System has complied with Constitutional Law, U.S. Law, or International Law regarding the Plaintiff's true, accurate, verifiable, and signed and notarized complaints of Torture (Ref. "Eighth and Ninth Amendments to the United States Constitution"), (Ref. "USC Chapter 113C – Torture" Appendix D), (Ref. "Geneva Conventions Against Torture Part 1", Appendix E).

The Petitioner notes that Torture is both a Federal and International Crime and that The Maine State Supreme Court continually attempts to evade the issue by stating that it is "not within their jurisdiction" (Ref. Maine State Appeals cited above; "Motions for Reconsideration" and The Courts' response to "Motions for Finding of Facts and Conclusions of Law"), despite the fact that The State of Maine has both a duty and obligation to ensure that its citizens United States Constitutional Rights are respected, upheld, and incorporated through the Fourteenth Amendment to the United States Constitution (Ref. "Eighth, Ninth, and Fourteenth Amendments to the United States Constitution").

Setting aside The Maine State Court System's refusal to abide by The United States Constitution, The Federal Court System unquestionably has Jurisdiction over Torture and Claims of Torture (Ref. "USC Chapter 113C – Torture", Appendix D), (Ref. "Geneva Conventions Against Torture", Appendix E).

Furthermore, the Petitioner has discussed the fact, within his court documentation (Ref. citations above) that he has reported the fact that he has been Tortured to every Government Agency that he could think of that could conceivably be able to help him. These State and Government Agencies include, but are not limited to, The United States Department of Justice, The Federal Bureau of Investigation, The United States Attorney General, The United States Supreme Court, The United States First Circuit Court of Appeals, The United States District Court of Maine, The United States Chapter (Maine) of The American Red Cross, The American Civil Liberties Union (ACLU), The Offices of Maine State Senators Susan Collins and Angus King, The Maine State Supreme Court, The Maine State Superior Court, The Maine Human Rights Commission, The Maine Office of the Attorney General (Janet Mills), The Maine Office of the Governor (Paul LePage), The Maine Government Oversight Committee, The Maine Office for Program Evaluation and Government Accountability, The Knox County Sheriff's Department, The Kennebec County Sheriff's Department, and The Penobscot County Sheriff's Department.

None of the above State or Federal Government Agencies has offered the Petitioner any help whatsoever, not even a response, and are therefore in

violation of both Federal Law 18 U.S.C. 2340, 2340(A), and 2340(B) and Part 1 Article 13 of The Geneva Conventions Against Torture (Ref. Ref. "USC Chapter 113C – Torture", Appendix D; "Geneva Conventions Against Torture", Appendix E). Part 1 Article 13 of The Geneva Conventions Against Torture states:

"Each State Party [including the United States] shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given." (Ref. "Geneva Conventions Against Torture Part 1, Article 13" – Appendix E).

The Petitioner has alleged he has been Tortured by Federal Government Employees during his employment at CDI Aerospace (UTC Hamilton Sundstrand, Windsor Locks, CT) during the years of 2012 – 2013 to all of the State and Federal Government Agencies identified above (although that list is not all-inclusive) as early as 11/01/16 (arguably 11/20/15 as this information was disclosed to "Officer David Trumbull" of the Penobscot County Sheriff's Office on that day), *and not a single one of those Government Agencies has acted to "ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities", nor have they acted to ensure "Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given", as Article 13 of The Geneva Conventions Against Torture demands they must* (Ref. "Geneva Conventions Against Torture Part 1 Article 13", Appendix E).

Therefore it is clear that the above State and Federal Government Agencies, including The Maine State and Federal Courts, are in International Violation of The Geneva Conventions Against Torture, Part 1 Article 13, to which The United States of America is bound to uphold as it is both a signed and principal party to The Geneva Conventions against Torture as well as The United Nations, who have adopted The Geneva Conventions against Torture.

Similarly, The above State and Federal Government Agencies, including The Maine State and Federal Courts, are in International Violation of The Geneva Conventions Against Torture, Part 1 Article 14, to which The United States of America is bound to uphold as it is both a signed and principal party to The Geneva Conventions against Torture as well as The United Nations, who have adopted The Geneva Conventions against Torture. Part 1 Article 14 of The Geneva Conventions Against Torture states:

1. "Each State Party [including The United States of America] shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependents shall be entitled to compensation".
2. "Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law".
(Ref. "Geneva Conventions Against Torture Part 1 Article 14", Appendix E).

At no time has any of the above-mentioned State or Government Agencies, including The Maine State and Federal Court Systems, "ensure[d] in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible", as Part 1 Article 14 of The Geneva Conventions Against

Torture demand they must, and these State and Government Entities are therefore again undeniably in violation of International Law (Ref. "Geneva Conventions Against Torture Part 1 Article 14", Appendix E).

Finally, The Courts may attempt to "wish away" the Fact that the Petitioner has been Tortured, and may somehow wish to call his claims of torture unfounded, frivolous, not rising to the level of Torture, etc., as he has provided only a handful of details regarding the Torture he has endured, ***details that are fit to print***, as he is justifiably afraid to publicly disclose the more heinous aspects of the Torture he has endured because he knows those heinous aspects to be classified as at least "Secret" ("Top Secret" in the case of the Petitioner) and knows that "the means and methods employed" to Torture him "are not commonly known amongst the General Population". This is not a case of simple water-boarding or being made to stand naked in a pyramid (i.e. "Abu Ghraib"); the Torture the Petitioner has endured from United States Government Personnel is much worse, and the injury he has suffered has been lasting, persistent, and painful.

However, somehow simply "wishing away" the Petitioner's allegations of Torture as unfounded, frivolous, or not rising to the level of Torture, is still in violation of The Geneva Conventions Against Torture, specifically Articles 12 and Articles 16, which state:

"Each State Party [including the United States of America] shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction".
(Ref. "Geneva Conventions Against Torture Part 1, Article 12", Appendix E).

and

1. "Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. *In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment."*

2. "The provisions of this Convention are without prejudice to the provisions of any other international instrument or national law which prohibits cruel, inhuman or degrading treatment or punishment or which relates to extradition or expulsion."

(Ref. "Geneva Conventions Against Torture Part 1, Article 16", Appendix E).

Furthermore, The First Circuit has held that

> "We accept as true all well-pled facts set forth in complaint and draw all Reasonable Inferences therein in the pleader's favor." (*Artuso v. Vertex Pharm Inc.*, 637 F.3d 1, 5 (1st Cir. 2011).

The Plaintiff's claims of Torture have been signed and sworn to under Notary and Penalty of Perjury, and are well-pled in *every single document This Court has received from the Petitioner which describes them*, and therefore must be accepted as True by The First Circuit Court of Appeals (and This Court), pursuant to That Court's own holding in *Artuso v. Vertex Pharm Inc.* Furthermore, The Courts must draw all reasonable inferences therein in the pleader's favor, again pursuant to The First Circuit Court of Appeals own holding in *Artuso v. Vertex Pharm Inc.*

Therefore, there is "reasonable ground" to believe the Plaintiff has been tortured (or at least subjected to Cruel, Inhuman, or Degrading Treatment) as he has pled numerous times pursuant to *Artuso v. Vertex Pharm Inc.,* and therefore an

investigation is demanded by The Geneva Conventions Against Torture Article 12 (Ref. "Geneva Conventions Against Torture Part 1 Article 12", Appendix E).

Additionally, The United States Supreme Court (This Court) has held that

> [The Pleadings of a *Pro Se* Party are subject to] "less stringent standards than formal pleadings drafted by lawyers" (*Haines v. Kerner*, 404 U.S. 519, 520)

The Plaintiff is not sure of what exactly he has to do in order for The Maine State and Federal Court Systems to "*properly receive the allegation that the Plaintiff has been tortured from the Plaintiff*", and Those Courts have not told the Plaintiff exactly what is additionally required of him, *if anything at all*, in order for Those Court to take his allegations of Torture seriously and in response, act accordingly.

However, pursuant to *Haines v. Kerner,* the fact that *The Plaintiff has alleged he has been tortured to The Maine State and Federal Courts numerous times and in every Complaint, Appeal, and Motion for a Court-Appointed Attorney they have received from him* (Ref. citations above) should satisfy the *Pro Se* Plaintiff's burden of pleading the Fact that the Plaintiff has been Tortured to The Maine State and Federal Courts, since as a *Pro Se* Plaintiff the Plaintiff has no idea how to accomplish this in any way other than the numerous way(s) he already has (Ref. citations above). Thus the Plaintiff's Pleadings of Torture are proper and should be properly recognized and addressed by The First Circuit Court due to their own holding in *Artuso v. Vertex Pharm Inc.* and The United States Supreme Courts' Holding in *Haines v. Kerner.*

Therefore, whether or not the above-named Maine State Courts, Federal Courts, and Maine State or Federal Government Agencies, including This Court, would like to "believe" the Plaintiff has been Tortured, *and they have not told the Plaintiff that at all,* ***in-fact they have all been suspiciously silent regarding the matter of Torture at every mention of the matter of Torture and have never offered a response of any kind whatsoever,*** the fact that the Plaintiff has been tortured has been extensively-pled and well-pled in his complaint(s) and pleadings (Ref. citations above), and Those Courts, as well as This Court, must therefore accept the fact that the Plaintiff has been tortured to be True pursuant to the holding in *Artuso v. Vertex Pharm Inc.,* and an investigation is therefore demanded pursuant to The Geneva Conventions against Torture, Part 1, Articles 12 and 13 (Ref. "Geneva Conventions Against Torture Part 1 Articles 12, 13, and 16", Appendix E), an investigation which has never been conducted, to the best of the Plaintiff's knowledge, ***as not a single government agency has ever attempted to contact the Plaintiff or solicit additional information in regards to the Torture he has suffered from United States Government Personnel.***

Thus, at present, almost five years' have elapsed and the above-named Government Agencies and Courts are still not in compliance with International Law, specifically The Geneva Conventions Against Torture (Appendix E).

The Petitioner has asked The First Circuit Court of Appeals specifically, in Appellant's Brief 20–1611 (the case on appeal in this Petition for Writ), to:

"The Appellant also asks The Honorable United States First Circuit Court of Appeals to connect him with an *Impartial Federal Government Agency* such that a

Prompt and Impartial Investigation into the Plaintiff's allegations of Torture may be conducted pursuant The Geneva Conventions Against Torture, to which The United States is bound by The United Nations to comply with"
(Ref. "First Circuit Court of Appeals Appellant's Brief 20–1611", pages 38–39)

which they have not done. They have not even offered the Petitioner a response.

Both The Maine State and Federal Court Systems are therefore in violation of The Geneva Conventions against Torture, Articles 12, 13, 14, and 16 and have clearly erred in ignoring the Petitioner's claims of Torture contained in his Briefs and Supporting Documentation (Ref. citations above).

The Fact that the United States is completely willing to ignore the Petitioners claims of Torture ***despite the fact that he has been seeking redress for this issue for the past five years*** is both troublesome and disconcerting and suggests the fact that The United States is a "Paper Tiger" when it comes to standing up to Human Rights Abuses – all talk and no action. We are quick to condemn other countries for Human Rights Abuses while simultaneously ignoring Torture perpetrated upon our own citizens within our own country.

The fact that these Human Rights Abuses (Torture of the Petitioner) have come from within The United States itself and have been perpetrated by United States Government Personnel on a lawful and law-abiding United States citizen (the Petitioner) makes this fact all the more disconcerting. This has been the Petitioner's experience, it has not been pleasant, and it has not been in accordance with United States Law, Constitutional Law, nor International Law. Thus The Honorable United States Supreme Court cannot afford to cast a blind eye to this issue and thus Certiorari should be granted.

2. **The Continual and Intentional Abuse and Disenfranchisement of the *Pro Se* Petitioner by The Federal Courts is illegal, unacceptable, and is a violation of the Petitioner's Fifth Amendment Right to Due Process (Procedural and Substantive), *in addition to other Rights conferred to him and Laws protecting him.* The Continual and Intentional Abuse and Disenfranchisement of an unrepresented *Pro Se Litigant* is of exceptional importance to This Court as it has bearing on all *Pro Se* Litigants who either cannot afford or cannot find legal representation.**

The District Court of Maine has a verifiable history of not treating the Plaintiff fairly, impartially, or in accordance with fact ("abuse" and/or "disenfranchisement"), and this case is no exception. The U.S. First Circuit Court of Appeals has remained silent on these abuses although the Plaintiff has brought them to their attention in each of his appeals, including this case on review for petition for certiorari, 20–1611 (Ref. "First Circuit Court of Appeals Appellants Brief 20-1611" pages 32 – 34, "Motion for Court-Appointed Attorney" 11/27/20 ¶¶2, 3, 4; "Second Motion for Court-Appointed Attorney" 12/08/20 ¶¶2, 3, 4, 5, 8, 9).

This abuse and disenfranchisement has taken the forms of the following, although this list is by no means all-inclusive.

The Federal District Court of Maine continually mischaracterizes the *indigent Pro Se* Plaintiff's statements and/or complaints *in a most inaccurate and unflattering way* within their Orders, Opinions, Recommended Decisions, and Decisions that are publicly published and available on the internet. However, the *indigent Pro Se* Plaintiff's responses (and corrections of the record) to these unflattering and biased mischaracterizations are unpublished and not available on the internet and thus the Plaintiff is continually and publicly mischaracterized,

defamed and/or libeled by The Federal District Court of Maine, an unacceptable and illegal action for which he has no recourse. This type of abuse has happened in every single case the Plaintiff has filed in federal district court. The Plaintiff is page-limited in this Petition to The Honorable Court and thus cannot cite every single instance where this has occurred, as they are copious, although he can certainly cite objective and verifiable evidence that this has happened and is continuing to happen for This Honorable Court's review (Ref. "Orders" and "Recommended Decisions" and compare them with the Plaintiff's actual filings in 1:19-CV-00486-JAW; 2:19-CV-00532-JAW; 1:20-CV-00011-JAW; 1:20-CV-00043-JAW; 1:20-CV-00137-LEW; 1:20-CV-00137-LEW).

The Plaintiff has alerted The First Circuit Court of Appeals to this fact in every one of his appeals to that court (Ref. "First Circuit Court of Appeals Appellants Brief 20-1611" pages 32 – 39, "Motion for Court-Appointed Attorney" 11/27/20 ¶¶2, 3, 4; "Second Motion for Court-Appointed Attorney" 12/08/20 ¶¶2, 3, 4, 5, 8, 9), (Ref. "First Circuit Court of Appeals Appellants Brief 20–1610" pages 12 – 32; "Motion for Court-Appointed Attorney" 11/27/20 ¶¶2, 3, 4; "Second Motion for Court-Appointed Attorney" 12/08/20 ¶¶2, 3, 4, 5, 8, 9), (Ref. "First Circuit Court of Appeals Appellants Brief 20–1777" pages 27 – 44, 47 – 48; "Motion for Court-Appointed Attorney" 11/27/20 ¶¶2, 3, 4; "Second Motion for Court-Appointed Attorney" 12/08/20 ¶¶2, 3, 4, 5, 8, 9), (Ref. "First Circuit Court of Appeals Petitioners Brief 20–2166" pages 41 – 48; "Motion for Court-Appointed Attorney" 12/31/20" ¶¶2, 3, 4, 5, 8, 9). The First Circuit Court of Appeals has refused to

respond in any way or put a stop to the common, inaccurate, and particularly unflattering mischaracterizations of the *indigent and Pro Se* Petitioner's pleadings that he has alerted them to.

The district court often makes the particularly inaccurate and unflattering mischaracterizations cited above and then uses these mischaracterizations to improperly call the Plaintiff's pleadings "Golden-like" *(Golden v. Coleman,* 429 Fed. App'x 73, 74 (3rd Cir. 2011), "Flores-like" *(Flores v. U.S. Atty. Gen.,* No. 2:13-CV-00053-DBH, 2013 WL 1122719, at *2 (D. Me. Feb. 26, 2013) and 2:13-CV-53-DBH, 2013 WL 1122635 (D. Me. Mar. 18, 2013), or "Denton-like" *(Denton v. Hernandez,* 504 U.S. 25, 33 (1992). Like the associated unflattering mischaracterizations of the Petitioner's pleadings as cited above, this has happened in every single case the Plaintiff has filed in the federal district court of Maine (Ref. "Orders" and "Recommended Decisions" and compare them with the Plaintiff's actual filings in 1:19-CV-00486-JAW; 2:19-CV-00532-JAW; 1:20-CV-00011-JAW; 1:20-CV-00043-JAW; 1:20-CV-00137-LEW; 1:20-CV-00137-LEW) and the Plaintiff has alerted The Honorable First Circuit Court of Appeals to this fact (Ref. First Circuit Citations, Page 15).

The district court, pursuant to their mischaracterizations of the Plaintiff's complaint(s) and subsequent findings based on those mischaracterizations as cited above, have warned the Plaintiff that "filing restrictions are in the offing" pursuant to *Cok v. Family Court of Rhode Island,* 985 F.2d 32, 35 (1st Cir. 1993) by Judge

Lance E. Walker of The Federal District Court of Maine in both of his published decisions (Ref. "Decisions" in 1:20-CV-00137-LEW; 1:20-CV-00149-LEW).

This has had a chilling effect on the *indigent Pro Se* Plaintiff's Right to Equal Access to and Protection under the Law, Access to The Court, and willingness to file additional True and Accurate Complaints in The Federal District Court as he is justifiably afraid filing restrictions will be unjustly imposed as described above if he files additional complaint(s) in The Federal District Court.

However, the Statute of Limitations does not toll despite the chilling effect the *indigent Pro Se* Plaintiff has experienced from the district court, and thus the Plaintiff finds that he has been the victim of "fundamental unfairness impinging on his due process rights", pursuant to *DesRosiers v. Moran*, 949 F.2d 15, 23 (1st Cir. 1991). The Plaintiff has alerted The Honorable First Circuit Court of Appeals to this fact (Ref. First Circuit Citations, Page 15).

The district court has continually ignored the Plaintiff's ***Judicially Noticeable*** and Factually Verifiable allegations of Torture that he has included in exhibit to his complaints, which is in violation of the Geneva Conventions Against Torture, Part 1, Articles 12, 13, 14, and 16 (Appendix E). As Torture is both an International and Federal Crime, the federal district court has jurisdiction over Plaintiff's allegations of Torture, and they are improperly and unlawfully ignoring them. The Plaintiff has alerted The Honorable First Circuit Court of Appeals to this Fact (Ref. First Circuit Citations, Page 15).

The district court has issued a recommended decision(s) and has invited the Plaintiff to file an objection(s) pursuant to Fed. R. Civ. P. 72 in case 2:19-CV-00532-JAW. The *unschooled and Pro Se* Plaintiff has then spent his time and energy composing such objection, only to find that an order has issued prior to the time allowed by Fed. R. Civ. P. 72 to file such objection had elapsed (14 days) and the *Pro Se* Plaintiff has therefore misspent his time on composing that objection, *although that time would not have been misspent had the District Court of Maine simply waited the 14 days to give the Petitioner opportunity to file such objection as Fed. R. Civ. P. 72 states the Plaintiff is allowed.* This situation has happened in *at least* case 2:19-CV-00532-JAW, as that docket record will reflect, and a similar situation has occurred in case 1:20-CV-00043-JAW.

Although perhaps not as grievous as the previous examples of seemingly intentional unflattering mischaracterizations of the Petitioner's pleadings, opinions and recommended decisions based on those unflattering mischaracterizations, and the threatening of the imposition of filing restrictions pursuant to those unflattering mischaracterizations, which rise to the level of unlawful behavior, the Plaintiff still finds this action by the district court to be unnecessary, inappropriate, and additional evidence that the district court holds a less-than-impartial view of the Plaintiff. The district court often waits months before responding to The Plaintiff's pleadings, and when it does those responses are often template-type responses (approximately 2/3 of the text of those responses appear to be "boiler-plate") and

thus it appears that *in actuality it took the district court much less time to compose the response than the months the Plaintiff waited to receive the response.*

However, the district court of Maine is quick to act when it wants to, as it has in case 2:19-CV-00532-JAW, when it issued a final order disposing of the Plaintiff's complaint in that case, based on a recommended decision, within the 14-day window the Plaintiff had to Object pursuant to Fed. R. Civ. P. 72. To think that the district court is usually willing to wait months before it gets around to replying to the Plaintiff's pleadings, and then does not even give the Plaintiff his statutory 14-days to object to a recommended decision, is a slap in the face to the *Pro Se* Plaintiff, who finds this situation to be abusive, nefarious, patently unfair, and arguably disenfranchisement and infringement upon the Plaintiff's Fifth Amendment Right to Procedural Due Process. The district court is willing to wait *months* before issuing a 6-page reply, 4 pages of which are usually boiler-plate, but is unwilling to afford the Plaintiff *14 days* to properly object to a recommended decision pursuant to Fed. R. Civ. P. 72? This is as ridiculous as it is unfair, and is additional evidence that the district court has a less-than-impartial view of the Plaintiff.

A similar situation has occurred in case 1:20-CV-00043-JAW (appealed as 20–2166) where the Plaintiff has filed an initial complaint on 02/07/20 (Ref. 1:20-CV-00043-JAW, "Complaint", 02/07/20), has noted within that complaint that he is aware that it needed amendment and would amend his complaint pursuant to Fed. R. Civ. P. 15 in the 20-days' time afforded to him by that Rule, and instead of waiting the usual 60 days or so to respond to the Plaintiff's initial filing (Ref. 1:19-

CV-00486-JAW; 1:19-CV-00532-JAW; 1:20-CV-00011-JAW), the district court has *seized the opportunity to prevent the Plaintiff from amending his complaint "once as a matter of course" within 20 days of filing pursuant to Fed. R. Civ. P. 15 by responding to it in exactly 6 days' time, which is approximately 1/10 of the time it has taken for response in all of the other Plaintiff's Pro Se cases referenced above* (Ref. 1:20-CV-00043-JAW, "Recommended Decision", 02/13/20).

Not only was this *exceedingly timely review* unnecessary, as the Plaintiff had already stated to the district court in his complaint that it required amendment and would be amended "once as a matter of course" pursuant to Fed. R. Civ. P. 15, but *this exceedingly timely review was completely unhelpful as it only reiterated the deficiencies in the Plaintiff's complaint the Plaintiff had already identified within his complaint for amendment* (Ref. "Complaint", 02/07/20, ¶11; "Recommended Decision", 02/13/20).

Clearly this exceedingly timely review was performed in much less time (approximately 1/10 the time) of the other complaints the Plaintiff has filed as noted above, and the only logical reason for it, that the Plaintiff can deduce, was to procedurally rob the Plaintiff of a chance to amend his complaint "once as a matter of course" within 20-days pursuant to Fed. R. Civ. P. 15, *which was exactly the Plaintiff's intention as stated within that complaint itself* (Ref. "Complaint", 02/07/20 ¶11).

Subsequently, the Plaintiff was given one and only one opportunity to amend his complaint before *Judge Woodcock acted on Magistrate Nivison's 02/13/20*

Recommended Decision and dismissed the Plaintiff's complaint 9 months later on 11/12/20. The Plaintiff finds the fact that *he was given one and only one opportunity to amend his complaint, and that being pursuant to a recommended decision that only identified deficiencies already identified by the Plaintiff himself in his initial complaint,* to be a clearly unfair, unjust, and improper way to treat an *indigent Pro Se* Plaintiff and his complaint.

Again, the Plaintiff understands that this situation is perhaps not as grievous as the previous examples he has cited, which rise to the level of unlawful behavior, although the Plaintiff rightfully finds that it is additional evidence that the district court has a less-than-impartial view of the Plaintiff and has treated him less-than-impartially.

The Plaintiff would like The Honorable Court to take note of this situation and these particular situations as cited in this argument and respond accordingly.

Furthermore, the Plaintiff has filed a Motions for a Court-Appointed Attorney pursuant to 28 U.S.C. 1915(e)(1) in this case under review and his other cases before The First District Court of Appeals and cites the above behavior by the district court, some of it criminal, as evidence that such an attorney is required by the *indigent and Pro Se* Plaintiff as he is experiencing "fundamental unfairness impinging on his due process rights" by the district court of Maine, pursuant to *DesRosiers v.* Moran, 949 F.2d 15, 23 (1st Cir. 1991) that he has neither the legal wherewithal to handle himself nor a visible path to redress.

The Petitioner cannot find any logical explanation for the verifiably wrong behavior perpetrated upon the Petitioner by the district court of Maine as cited in this argument, except perhaps for the fact that the Plaintiff has properly alleged he has been Tortured by United States Federal Employees (and he has) and perhaps the Federal Courts are seeking to discredit him on the public record. This is not a *Denton-like* statement, it is a logical deduction – as noted in Argument #1, the Petitioner has made *copious amounts* of State and Federal Agencies aware of the Fact that he has been tortured, including the Courts, and *not a single agency or Court has offered any response whatsoever to this highly-illegal situation.*

The continual and intentional abuse and disenfranchisement of an *indigent Pro Se* litigant, as described within this argument, is not Constitutional nor is it lawful and results in "fundamental unfairness impinging on due process rights". The Honorable United States Supreme Court should have an active and healthy interest in ensuring that the Justice System works fairly, justly, and properly for everyone in this country (Lady Justice wears a blindfold for a reason), even the least among us such as indigent and Pro Se litigants, and thus certiorari should be granted.

3. **The District Court of Maine has abused its discretion by improperly dismissing the *Pro Se* Plaintiff's complaint *sua sponte* and prior to service on any defendants, and that decision conflicts with the Plaintiff's Fifth Amendment Constitutional Rights, *as well as other Rights conferred to him,* as well as in-practice case law.**

The Petitioner's complaint was dismissed, in substance, for "[not] assert[ing] a substantial Federal Claim" (Ref. Appendix B).

The basis for this conclusion was, in essence, that it was the opinion of Judge Walker of the district court of Maine that the Plaintiff's complaint was "absolutely devoid of merit", "wholly insubstantial", "obviously frivolous", "plainly insubstantial", "no longer open to discussion", "essentially fictitious", and "obviously without merit" (Ref. Appendix C).

However, as the Petitioner has shown in the "Statement of the Case" (Pages 4 – 13), the Petitioner's complaint (1:20-CV-00149-LEW) was none of those things.

The Petitioner's complaint cannot rightfully be called any of those things cited in the district court's opinion as the Facts of the Case (Pages 4 – 13) are well-documented and well-evidenced in The Trial Court's own documentation, including the written and certified transcripts, of which the Plaintiff has included as exhibits to his complaint in order to prove his case.

Unless it is the position of Judge Walker that the Waterville District Court's record of case PENDC-CR-16-20309 is "absolutely devoid of merit", "wholly insubstantial", "obviously frivolous", "plainly insubstantial", "no longer open to discussion", "essentially fictitious", and "obviously without merit", then the district court's opinion is unfounded and uncredible as the Petitioner has written his complaint and has based and evidenced it on the *verifiable case record that exists for case PENDC-CR-16-20309,* and as discussed above the Petitioner has added the salient case record files, including the certified transcripts, as exhibits to his complaint in support of the facts of his complaint (Ref. "Complaint", all; PENDC-CR-16-20309 docket, all).

There is clearly a credibility gap here that becomes apparent when the facts of case PENDC-CR-16-20309, as recorded in the docket files, are compared with the facts of the Petitioner's complaint, and the credibility is not in the district court of Maine's favor or in favor of the defendants in this case.

The Plaintiff understands that he has caught some of the defendants' "red-handed", so to speak, as the facts of PENDC-CR-16-20309 as recorded in the docket files match the Petitioner's complaint and are indisputable. Although there are indeed some defendants who are a party to this complaint who would probably rather not be caught and called out in a Federal Court Case (such as the DA, ADA, and Judge), much less in a complaint that includes violations of The Geneva Conventions against Torture ("Complaint", counts 45 & 46), the fact remains that Lady Justice wears a blindfold for a reason and these people are not above reproach.

In this case, Judge Walker of the district court of Maine has removed the blindfold and spared these defendants even the necessity to provide answer by inappropriately dismissing all 46 counts of the Plaintiff's meritorious complaint *sua sponte*. The *sua sponte* dismissal of all 46 counts was inappropriate because the Plaintiff's complaint matches the verifiable and indisputable facts of the case, and in many instances includes the case files as exhibits to prove the facts of his complaint, as discussed above.

The Petitioner notes that only one count of his complaint needs to be found meritorious in order for his case to proceed. Judge Walker and the district court of Maine have completely quashed all discussion whatsoever of PENDC-CR-16-20309

by inappropriately dismissing it *sua sponte* prior to service upon any defendant, and has disenfranchised the Petitioner by doing so.

Judge Walker and the district court of Maine's opinion is also in conflict with existing and in-use case law. The Petitioner is *indigent and Pro Se* and cannot find an attorney to represent him (probably due to the Fact that he has been Tortured by United States Government Personnel), but he has found a few case citations which support his contentions, and he is quite sure that The Honorable United States Supreme Court knows a few more.

The United States Supreme Court has held that:

> [A *Pro Se* Plaintiff's complaint is subject to] "less stringent standards than formal pleadings drafted by lawyers" (*Haines v. Kerner,* 404 U.S. 519, 520).

The Petitioner is not alleging there is anything wrong with the Facts of his complaint, in-fact he is stating the exact opposite, and using the existing and indisputable case files in NEWDC-CR-16-20309 to prove his case, as inspection of his complaint will reveal (Ref. "Complaint", all; NEWDC-CR-16-20309, all).

The *Pro Se* Petitioner however does recognize that perhaps 46 counts was excessive. In particular, some of those counts were predicated on criminal statutes and, had the *indigent and Pro Se* Petitioner known at that time, should not have been included in the complaint. *Haines* affords the *Pro Se* Petitioner small mistakes such as this, and the fact that some counts may have been fruitless or not prosecutable by the Plaintiff does not make the remaining counts "frivolous" or "devoid of merit". Each count should be evaluated on its own merits, as The Honorable Court knows, and the district court of Maine has not done that.

The First Circuit Court of Appeals has held that:

> "We accept as true all well-pled facts set forth in complaint and draw all Reasonable Inferences therein in the pleader's favor." (*Artuso v. Vertex Pharm Inc.*, 637 F.3d 1, 5 (1st Cir. 2011).

The Petitioner's complaint did not leave much room for inference as it was well-evidenced by the case material in the docket of NEWDC-CR-16-20309, and when it did leave room for inference, those reasonable inferences should have been drawn in the pleader's favor (Ref. "Complaint", all; NEWDC-CR-16-20309, all). It is therefore clear that the district court's *sua sponte* dismissal of the Plaintiff's well-evidenced complaint is in conflict with The First Circuit's holding in *Artuso v. Vertex Pharm Inc.*, 637 F.3d 1, 5 (1st Cir. 2011).

The United States Supreme Court has held that:

> "An in forma pauperis complaint may not be dismissed, however, simply because the court finds the plaintiff's allegations unlikely." *Denton v. Hernandez*, 504 U.S. 25, 33 (1992).

It would be difficult to find the Petitioner's allegations "unlikely" as they are well-evidenced by the indisputable facts of the case as found in the PENDC-CR-16-20309 docket, many of the case material having been included as exhibit to the complaint in order to prove the Petitioner's allegations. However, the district court of Maine has done exactly that and thus the district court's opinion conflicts with The U.S. Supreme Court's holding in *Denton v. Hernandez*, 504 U.S. 25, 33 (1992).

The United States Supreme Court has held that:

> "a court may dismiss a claim as factually frivolous only if the facts alleged are "clearly baseless"". *Neitzke v. Williams*, 490 U.S. 319, 324 (1989).

A comparison of the Petitioner's complaint and exhibits to that complaint, much of it taken directly from the PENDC-CR-16-20309 case material, shows that the Plaintiff's complaint does not approach "clearly baseless" by a long shot and therefore *sua sponte* dismissal of the Plaintiff's complaint by the district court for the stated reason that it was "baseless" or "unsubstantiated" is both ridiculous and in conflict with *Neitzke v. Williams*, 490 U.S. 319, 324 (1989).

Thus it is evident that the *indigent and Pro Se* Petitioner's complaint was not only improperly dismissed by the district court of Maine but that improper dismissal is in conflict with existing and in-use case law, much of it coming directly from The Honorable United States Supreme Court itself.

The Honorable Court should not abide the Unconstitutional, Unlawful, and discriminatory treatment of an *indigent and Pro Se* litigant for any reason whatsoever. The fact that this type of unlawful abuse is occurring should be a "red flag" to The Honorable Court that the actions of the district court of Maine have deteriorated to such an extent that a higher power's intervention is necessary; thus certiorari should be granted.

CONCLUSION

The Petition for Certiorari should be granted.

Furthermore, The Honorable United States Supreme Court should provide the Petitioner with the resources (Legal Assistance, a Federal Agency, etc.) with which he might find resolution to the very important problem of Torture that he has positively experienced from United States Government Personnel and the lasting, persistent, and painful injuries that have resulted from that Torture.

Respectfully Submitted,

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