No. 21-139

In The

SUPREME COURT OF THE UNITED STATES

JAMES W. GILLIAM, Pro se,

Petitioner,

V.

DISCOVER BANK,

And

KIRSCHENBAUM & PHILLIPS, P.C.,

Respondents.

On Petition For Writ Of Certiorari
To The New York State Court Of Appeals
PETITION FOR WRIT OF CERTIORARI

JAMES W. GILLIAM, Pro se
75 West Street Warwick, New York 10990
(845) 544-1563

QUESTION FOR REVIEW

This petition raises the Constitutional issue of whether or not a citizen of the United States is entitled to his or her own day in court – or be denied justice [due process] because he or she – like over a hundred million Americans[1] – cannot afford a lawyer?

The right to an individual's 'Day in Court' which encompasses every person within the jurisdiction of the United States is so deeply ingrained in our traditions of American jurisprudence, that Chief Justice Rehnquist, in delivering the opinion of the Court in *Martin v Wilkes,* No. 87-1614, argued January 18, 1989 – decided June 12, 1989 (Slip Opinion), quoted 18 C. Wright, A. Miller, & E. Cooper, *Federal Practice and Procedure,* Section 4449, p417 (1981) (18 Wright): "This rule is part of our 'deep-rooted historic tradition that everyone should have his own day in court.'"

'Due Process' under law is a term that Justice Frankfurter defined – in *Rochin v. California,* when he wrote:

> [t]hese standards of justice are not authoritatively formulated anywhere as though they were specifics. Due process of law is a summarized Constitutional guarantee of respect for those personal immunities which ... are so rooted in the traditions and conscience of our people as to be ranked as fundamental or are implicit in the concept of ordered liberty.

In addition and perhaps – more importantly – he said:

> The Constitution is intended to preserve practical and substantial rights, not to maintain theories.

[1]Baylor Law School: '100 Million Americans Can't Afford Legal Services. What Can We Do About It?' https://www.baylor.edu/mediacommunications/news.php?action=story&story=172819 accessed 5/7/2020 11:57 AM.

LIST OF PARTIES

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

RELATED CASES

There are no related cases.

JURISDICTION

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

The date on which the State of New York Court of Appeals decided this casewas 27 May 2021. A copy of that decision appears at Appendix A.

Table of Contents

INDEX OF APPENDICES

APPENDIX A:

New York State Court of Appeals ORDER dated May 27, 2021, denyingPetitioner's appeal.

Table of Authorities

Cases

Treatises

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review thejudgment below.-

OPINIONS BELOW

The opinion of the New York State Court of Appeals appearing at Appendix A to thepetition and is reported at:

DecisionList052721.pdf (nycourts.gov)

The opinion of the State of New York Supreme Court, Appellate Division ThirdJudicial Department appearing at Appendix B to the petition and is reported at: 531335.pdf (state.ny.us)

The decision and order of the Supreme Court of the State of New York County of Sullivan appearing at Appendix C to the petition and is reported at:

https://iapps.courts.state.ny.us/nyscef/ViewDocument?docIndex=LFAvDARcEKEtskFU6GT6rg==

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Constitution of the United States

Article VI Clause 2

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

First Amendment

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Fifth Amendment

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

Fourteenth Amendment

Section 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which

shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

1. On January 22, 2018, Respondents obtained a judgment against LAURA GILLIAM in the amount of: $12,704.04 plus costs.

2. This judgment expressly excluded the Petitioner.

3. New York is not a community property state and therefore, a spouse owns his or her own debt.

4. The primary holding in *Martin v. Wilks* was:

> [O]ne is not bound by a judgment in personam in a litigation in which he is not designated as a party or to which he has not been made a party by service of process. Hansberry v. Lee, 311 U.S. 32, 40.Pp. 761-762. Under ordinary application of the Federal Rules of Civil Procedure, a party seeking a judgment binding on another cannot obligate that person to intervene; he must be joined.

5. On July 16, 2019, LAURA received an Information Subpoena with Restraining Notice, signed by a Mr. Love Ahuja.

6. She completed the attached Exemption Claim Form and signed it under a Notary's seal on July 19, 2019, attaching 1) her Social Security Statement of May 30, 2019, attesting to the fact that she had not been employed during the past 20-years; 2) Petitioner's Social Security Benefits Statement for 2018; 3) his VA Benefits Statement for 2018; 4) his Federal Retirement Annuity Statement for 2018; and 5) an additional 1099-R for Petitioner for 2018.

7. On July 21, 2019, LAURA GILLIAM suffered a stroke and now

has nomemory of the initial law suit or the ongoing process surrounding it.

8. On November 20, 2019, Petitioner accessed the couple's joint savings account to discover that $1,272.64 had been restrained and a legal fee of $100.00 had been assessed.

9. CPLR §5222-a, requires that within two days after the bank receives the process and notices, it must serve copies upon the debtor by mail.

10. This did not happen in a timely fashion – the funds were restricted before Plaintiff received the mandated notice and had time to respond.

11. The notice from the judgment creditor was dated November 16, 2019 [a Saturday] and the bank restricted the joint savings account on November 20 [a Sunday] when KeyBank by FDIC definition was closed for business, resulting in 'unfair surprise' to Petitioner who was not provided adequate notice as provided by law.

12. On November 26, 2019, Petitioner received a letter from KeyBank NA stating [what he already knew as of November 20, 2019] that the joint savings account had been restricted in the amount of $1,272.64 including a $100.00 legal fee.

13. Notice must precede the restraint not follow it and the Fifth and Fourteenth Amendments are clear and unambiguous in stating that due process requires adequate notice if a guaranteed right is removed.

14. Here Petitioner's right to respond was lost in the rush to restrict

his funds in the couple's joint savings account. Thereby, foreclosing his due process rights resulting in tortuous interference with his right to the use of those restricted funds in a manner he saw fit pursuant to his contract with KeyBank NA.

15. With this letter was a blank Information Subpoena with Restraining Notice signed by a James P. Scully and dated November 16, 2019.

16. In *Mullane v. Central Hanover Bank & Trust Co.* the core case setting forth Constitutional notice requirements – the U.S. Supreme Court held that notice must be "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." Moreover, defendants must be notified by the "best practical means" available.

17. KIRSCHENBAUM & PHILLIPS, P.C., had known for four months that LAURA GILLIAM was unemployed and had no independent assets – in effect she was judgment proof.

18. Respondent's counsel Mr. Michael L. Kohl, in his Affirmation in Support of Motion to Dismiss filed with the Sullivan County Clerk's Office 2/13/2020, stated at paragraph 38:

> Furthermore, in so far as Ms. Gilliam claims to be unemployed as of July 19, 2019, there is no indication in any of the information provided by Plaintiff that Mrs. Gilliam would be remain unemployed for the foreseeable future. Thus, even if the Plaintiff herein provided certain regarding his and his spouse's income as of July 19, 2019, said information did not dispositively preclude Discover Bank from attempting any enforcement efforts with respect to the Judgment against Laura Gilliam.

19. He continues this line of reasoning in his reply to Petitioner's Oral Argument before the Third Judicial Department on 5 February 2021, when he said:

> ...The fact that he sent an exemption notice five months prior has no bearing on what's in the account at that moment as long as the account is properly restrained he could have hit the lottery between then and now or not him his wife his wife is the one is the one who is the subject of this....

20. NY CPLR § 5222(c) provides:

> Subsequent notice. Leave of court is required to serve more than one restraining notice upon the same person with respect to the same judgment or order. A judgment creditor shall not serve more than two restraining notices per year upon a natural person's banking institution account.

21. Respondents served the second restraining notice without leave of the Court in contravention of § 5222(c) rendering the notice null and void.

22. Petitioner received a letter from KIRSCHENBAUM & PHILLIPS, P.C. dated December 3, 2019, which stated in pertinent part: "Your account(s) at KEYBANK NATIONAL ASSOCIATION have been restrained."

23. On December 12, 2019 Petitioner filed a summons and complaint in the Supreme Court of Sullivan County New York.

24. Petitioner's action was dismissed by the trial court on April 26, 2020, by the Hon. Mark M. Meddaugh, Acting Supreme Court Justice.

25. Petitioner filed and served notice of appeal – to the Third Judicial Department – upon all parties on May 4, 2020.

26. The appeal was decided in favor of Respondents on March 25. 2021.

27. Petitioner appealed to the New York Court of Appeals and this appeal was denied without costs based on the ground "... that no substantial constitutional question is directly involved."

REASONS FOR GRANTING THE PETITION

Above the entrance to the Supreme Court

These words are chiseled in stone:

EQUAL • JUSTICE • UNDER • LAW

'Equal for whom?"

Not the hundred million Americans who cannot afford a lawyer.[1]

Petitioner JAMES W. GILLIAM respectfully raises the Constitutional question of whether or not a citizen of the United States is entitled to his or her own day in court – or be denied justice [due process] because he or she – like over a hundred million Americans – cannot afford a lawyer.

"The general principles of the constitution ... are with us the result of judicial decisions determining the rights of private persons in particular cases brought before the Courts ... the right to individual liberty 1s part of the constitution, because it is secured by the decisions of the Courts." (Dicey)

The right to an individual's 'Day in Court' which encompasses every person within the jurisdiction of the United States is so deeply ingrained in our traditions of American jurisprudence, that Chief Justice

[1] Ibid.

Rehnquist, in delivering the opinion of the Court in *Martin v Wilkes,* No. 87-1614, argued January 18, 1989 – decided June 12, 1989 (Slip Opinion), quoted 18 C. Wright, A. Miller, & E. Cooper, *Federal Practice and Procedure,* Section 4449, p417 (1981) (18Wright): "This rule is part of our 'deep-rooted historic tradition that everyone should have his own day in court.'"

'Due Process' under law is a term that Justice Frankfurter defined – in:

Rochin v. California, when he wrote:

> [t]hese standards of justice are not authoritatively formulated anywhere as though they were specifics. Due process of law is a summarized Constitutional guarantee of respect for those personal immunities which ... are so rooted in the traditions and conscience of our people as to be ranked as fundamental or are implicit in the concept of ordered liberty.

In 2015, we celebrated the 800-year anniversary of the *Magna Carta* which expresses the right to personal freedom and the idea of procedural due process including, a fair trial and access to justice. (Holt)

Both have been denied Petitioner by the New York State Court of Appeals and now form the basis of this petition.

According to the *Carta's* Article 39 Individual liberty can only be curtailed through lawful judgments; and the right to a fair trial and access to justice must be respected.

This is *emblazoned* in the *Carta's* Article 40: 'To no one will we sell, to no one deny or delay right or justice." (Holt)

The Magna Carta was not about the common man

It was about the clergy – the nobles – and the guilds [including lawyers] which comprised barely twenty-five percent of the population of England at the time.

The other seventy-five percent [surfs] were unaffected by it – and caught up in eking out a bare existence in a world where only the monied twenty-five percent could expect justice in the King's courts – ignored it in the same manner the 21st Century [American] surfs – surviving in the inner cities – are [*de facto*] ignored by the courts because they cannot afford the price of admission to the justice system guaranteed by the Constitution.

The Constitution that millions of Americas' best and brightest have died to preserve – and indeed continue to make the ultimate sacrifice to protect in far flung places like Afghanistan and Iraq – begins simply with the words: *We the People*; not: We the Robber Barons of Wall Street.

Montesquieu said, "The constitutions of Rome and Athens were excellent. The decrees of the senate had the force of law for the space of a year but did not become perpetual until ratified by the consent of the people."

Have we forgotten the *'People'* in our rush to dispense political and judicial patronage to special interest groups like the credit card and insurance industries with their armies of professional litigators opposing

uninformed and unrepresented defendants?

In *Railroad Trainmen v. Virginia Bar,* the Supreme Court held:

> Laymen cannot be expected to know how to protect their rights when dealing with practiced and carefully counseled adversaries, cf. *Gideon v. Wainwright,* 372 U. S. 335, and for them to associate together to help one another to preserve and enforce rights granted them under federal laws cannot be condemned as a threat to legal ethics. [Footnote 13] The State can no more keep these workers from using their cooperative plan to advise one another than it could use more direct means to bar them from resorting to the courts to vindicate their legal rights. *The right to petition the courts cannot be so handicapped. (Italics supplied)*

Here, as m *Railroad Trainmen, above,* Petitioner's "right to petition the courts" has been "handicapped" by the dismissal of his case – foreclosing his Fourteenth Amendment "right to his own day in court."

This action is contrary to the guaranteed right to due process inalienably possessed by all Americans regardless of their situation in life that has continually been reinforced by the Supreme Court since *Marbury v. Madison* where Chief Justice Marshall said: "The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws whenever he receives an injury."

Advocacy and right to petition for redress of grievances are protected by the First Amendment (*NAACP v. Button*) and the Fourteenth Amendment ensures equal justice for the poor in both criminal and civil actions. (*Williams v. Shaffer*) But to millions of Americans who are indigent and ignorant – often members of minority groups – these rights are

meaningless.

They are helpless to assert their rights under the law without assistance. They are victimized by shady consumer sales practices without hope of legal remedies. (*Hockin v. Arizona*)

In *Truax v. Corrigan* the Supreme Court reasoned: "Our whole system of law is predicated on the general fundamental principle of equality of application of the law. 'All men are equal before the law,' 'This is a government of laws and not of men,' 'No man is above the law,' are all maxims showing the spirit in which legislatures, executives, and courts are expected to make, execute and apply laws. But the framers and adopters of the (Fourteenth) Amendment were not content to depend ... upon the spirit of equality which might not be insisted on by local public opinion. They therefore embodied that spirit in a specific guaranty."

Forcing 'Hobson's choice' – the horse left by the stable door or none – on a *pro se* litigant mandating the use of an attorney he or she cannot afford or give up the right to due process smacks of the *Jim Crowism* the Fourteenth Amendment was designed to protect against.

You have a Constitutional right to vote, but only if you can afford to pay for it – and like the now abolished 'poll tax' laws - violates the Equal Protection Clause of the Fourteenth Amendment which was implemented to ensure the fair treatment of all legal citizens of the United States.

In furtherance of the Equal Protection Clause of the Fourteenth Amendment and in order for a classification to pass a U.S. Supreme Court

test, the State must prove there is an imperative interest to the law and the classification is needed to further that interest.

Here, there was no 'State interest' to be satisfied when New York's judicial system ignored Petitioner's Fourteenth Amendment right to be heard.

The U.S. Supreme Court will apply strict scrutiny if any classification interferes with the fundamental rights, such as the First or Fourteenth Amendments.

All states must comply with the rulings of the Supreme Court, which continuously reviews the laws applied by each State to ensure it is following guidelines of fair practice and treatment and the Supreme Court has repeatedly stated that *Pro se* complaints are [in effect] not subject to dismissal absent a meaningful opportunity to be heard.

In *Haines v. Kerner,* the Court held: "Accordingly, although we intimate no view whatever on the merits of petitioner's allegations, we conclude that he is entitled to an opportunity to offer proof. The judgment is reversed and the case is remanded for further proceedings consistent herewith."

In *Haines* the Court cited: *Conley v. Gibson,* where MISTER JUSTICE BLACK, speaking for the Court said in part, "The Federal Rules reject the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accepts the principle that the purpose of pleading is to facilitate a proper decision on the merits."

The Court also cited, the famous and somewhat colorful *pro se* case of *Dioqauardi v. Durning,* holding, "Whether or not a plaintiff ultimately loses on the merits in no way shows that he should be thrown out of court without opportunity to prove those merits."

Here Petitioner's due process rights were ignored by New York courts, denying him the right all *pro se* litigants have: "The right to a meaningful opportunity to be heard." (*Logan v. Zimmerman Brush Co.*)

"For example – where a plaintiff's claim had been dismissed for failure to comply with a trial court's order – the Court read the "property" component of the Fifth Amendment's Due Process Clause to impose "Constitutional limitations upon the power of courts, even in aid of their own valid processes, to dismiss an action without affording a party the opportunity for a hearing on the merits of his cause." (*Societe International v. Rogers*)

"Due process requires, at a minimum, that, absent a countervailing state interest of overriding significance, persons forced to settle their claims of right and duty through the judicial process must be given a meaningful opportunity to be heard." (*Boddie v. Connecticut*)

"There are rights in every free government beyond the control of the State. As well as limitations on [governmental power] which grow out of the essential nature of all free governments. Implied reservations of individual rights, without which the social compact could not exist." (*Mutual Loan Co. v. Martell*)

The law can be either a sword or a shield

It becomes a sword when people of conscience ignore it, denigrate it, or misinterpret it.

It becomes a shield when courts work to make it not just look good and seem just, but actually be good and just.

Here New York courts apparently choose to use the law as a sword by dismissing Petitioner's case in all of its courts – denying JAMES W. GILLIAM – a member of a Constitutionally disadvantaged class of over 100 Million Americans who cannot afford a lawyer – his Constitutionally guaranteed right of due process established by the Fourteenth Amendment.

It is well established in law that a judgment may not be rendered in violation of constitutional protections and consequently the validity of a judgment may be affected by a failure to give the constitutionally required due process notice and an opportunity to be heard. (*Earle v. McVeigh*) The limitations inherent in the requirements of due process and equal protection of the law extend to judicial as well as political branches of government, so that a judgment may not be rendered in violation of those constitutional limitations and guarantees. (*Hanson v. Denckla*)

Every person is entitled to an opportunity to be heard in a court of law upon every question involving his rights or interests, before he is affected by any judicial decision on the question (*Earle v. McVeigh*) and a judgment of a court without hearing the party or giving him an opportunity to be heard is not a judicial determination of his rights. (*Sabariego v. Mavrick*)

Federal decisions addressing void state court judgments include: *Kalb v. Feuerstein* and *Ex parte Rowland,* "A judgment which is void upon its face, and which requires only an inspection of the judgment roll to demonstrate its wants of vitality is a dead limb upon the judicial tree, which should be lopped off, if the power to do so exists."

Every statute of every state may be challenged under Article VI

Article VI. Mandates:

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

"The requirement that government be conducted according to law (the principle of legality) is a necessary condition for the rule of law; but insistence on legality alone does not ensure that the state's powers are consistent with values such as liberty and due process." (Bradley & Ewing)

In *Mullane v. Central Hanover Bank & Trust Co.,* the core case setting forth Constitutional notice requirements, the U.S. Supreme Court held that notice must be "... reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." Moreover, defendants must be notified by the "best practical means" available.

Denial of notice was Petitioner's main cause of action in the original case where Respondents' induced KeyBank NA to restrict the savings

account owned jointly by the GILLIAM'S without the required Constitutional notice.

In *Mullane,* as here, the beneficiaries' property rights were at stake, and without proper notice, the "right to be heard" provided by the Fourteenth Amendment was of no practical consequence. The Court held: "Against this interest of the State we must balance the individual interest sought to be protected by the Fourteenth Amendment. This is defined by our holding that 'The fundamental requisite of due process of law is the opportunity to be heard.' *Grannis v. Ordean,* This right to be heard has little reality or worth unless one is informed that the matter is pending and can choose for himself whether to appear or default, acquiesce or contest."

"For example – where a plaintiff's claim had been dismissed for failure to comply with a trial court's order – the Court read the "property" component of the Fifth Amendment's Due Process Clause to impose "Constitutional limitations upon the power of courts, even in aid of their own valid processes, to dismiss an action without affording a party the opportunity for a hearing on the merits of his cause." (*Logan v. Zimmerman Brush Co.*)

Putting aside Petitioner's Fourteenth Amendment rights; the original dismissal by the trial court involved an error in statutory interpretation.

As Judge Learned Hand, succinctly phrased his answer to a statutory

interpretation question in *Cabell v Markham*:

> One of the surest indexes of a mature and developed jurisprudence is not to make a fortress out of the dictionary, but to remember that statutes always have some purpose or object to accomplish, whose sympathetic and imaginative discovery is the surest guide to their meaning.

Montesquieu said in his classic, *The Spirit of Laws,* "If the legislative and executive authorities are one institution, there will be no freedom. There will likewise be no freedom without a completely separate and totally independent judiciary."

What Montesquieu left out, is: Courts cannot arbitrarily write in their own definition of what the legislature intended – thereby denying Americans their constitutionally guaranteed *'day in court'.*

The final reason this writ should be granted rests in the fact that when the trial court – the Appellate Division – and the Court of Appeals were presented with irrefutable precedent validating Petitioner's denial of due process allegations they chose to ignore it.

The questions presented for review by the Appellate Division and the Court of Appeals included:

Did the trial court err in dismissing Appellant's cause of action after he advised the court of the Second Department's holding in: *Distressed Holdings, LLC v Ehrler,* "We conclude that this constituted a violation of the judgment debtor's due process rights"?

Yes. *Distressed Holdings, LLC* was directly on point and constituted a

type of "super precedent" (Landes & Posner) that the trial court – for whatever reasons – did not follow.

In *Hubbard v. United States,* Justice Scalia, concurring in part and concurring in the judgment, said, "Who ignores [the doctrine of stare decisis] must give reasons, and reasons that go beyond mere demonstration that the overruled opinion was wrong (otherwise the doctrine would be no doctrine at all.)"

CONCLUSION

The petition for a writ of certiorari should be granted.

Under the Utopian ideal of 'Due Process' for all – over 100 Million Americans who cannot pay for the due process guaranteed by our Constitution are left out of the [Equal + Justice + Under Law] equation emblazoned over the entrance to the Supreme Court. But in the real world – only the law matters: Not equality or justice or the false promise that these propositions include All Americans.

"We demand of an adjudicative decision a kind of rationality we do not expect of the results of contract or of voting. This higher responsibility toward rationality is at once the strength *and the weakness* of adjudication as a form of social ordering." (Fuller & Winston)

In his classic work – *The Morality of Law* – on the professional ethics of lawyers – that he refers to as lawgivers and law appliers – Fuller argues, "We cannot have law where those who govern do not respect the agency of those who are governed and while adjudication is a process with which we are familiar and which enables us to show to advantage our special talents, it may be an ineffective instrument for economic management."

Denial of the Constitutional right of access to our courts thereby denying any possibility of redress of grievances under the Rule of Law according to established standards of Due Process is the ultimate disrespect for the 'agency' of any American who cannot afford an attorney.

The Fifth and Fourteenth Amendments guarantee that no one shall be deprived of their ... 'property' ... without due process of law. Dicey said that: "...no man is punishable or can lawfully be made to suffer in body or goods except for a distinct breach of law established in the ordinary legal manner before the ordinary courts of the land."

If anyone – you or I – president or pauper – is to be punished – it must not be for breaking a rule concocted by the bankers of Wall Street and enforced by officials with a conflict of interest. It must be for a proven breach of the established law of the land. And it must be a breach established before the ordinary courts of the land, not a tribunal of members picked to do the government's bidding, lacking the independence and impartiality which are expected of judges.

Writing for the Court in *McNabb v. United States,* Justice Felix Frankfurter wrote: ***"The history of liberty has largely been the history of the observance of procedural safeguards' (Emphasis and Italics supplied)***

"The requirement that government be conducted according to law (the principle of legality) is a necessary condition for the rule of law; but insistence on legality alone does not ensure that the state's powers are consistent with values such as liberty and due process." (Bradley & Ewing)

Dated: June 5, 2021

Revised: July 1, 2021

Respectfully submitted,

JAMES W. GILLIAM, Pro se
75 West Street
Warwick, New York 10990
(845) 544-1563

Executed on: July 1, 2021