

No. 21-1456

ORIGINAL

REP

In the
Supreme Court of the United States

CHRISTY POON-ATKINS,

Petitioner,

v.

SAMMY M. SAPPINGTON; AND
WAL-MART STORES EAST, L.P.,

Respondents.

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Fifth Circuit

PETITION FOR REHEARING

CHRISTY POON-ATKINS
PETITIONER PRO SE
PROFESSIONAL ENGINEER
No. PE031751
1866 ALCOVY TRAILS DRIVE
DACULA, GA 30019
(678) 517-5979

OCTOBER 28, 2022

SUPREME COURT PRESS

♦ (888) 958-5705 ♦

BOSTON, MASSACHUSETTS

RECEIVED
NOV - 1 2022
OFFICE OF THE CLERK
SUPREME COURT, U.S.

TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES	iii
STATEMENT OF JURISDICTION	1
GROUND FOR REHEARING	1
I. THIS COURT SHOULD GRANT REHEARING TO REASSERT PROPER EXECUTION OF MINISTERIAL DUTIES, CONSISTENT WITH THE CONSTITUTION AND ARTICLES OF CONFEDERATION, AS DIS- TINCT FROM DISCRETIONARY DUTIES.	6
A. The Matter of the Plaintiff's Discovery Admission Production Raised to the District Court in Plaintiff's Motion to Object [ROA 371] [App. to Pet. Reh'g 76a] and Settled with District Court Decision [App. to Pet. Cert. 42a, ECF No. 21-60467] & [App.36a] Prior to the District Court Final Judgment.	7
B. The Federal Circuit Court Does Not Firmly Conclude the Nonexistence of Material Facts, as Facts Must Be Presented to a Jury.	8
C. The Fundamental Question of Due Process in Accordance with the Consti- tution Remains an Issue Among Others...	11
D. Lower Court Decisions Do Not Reflect Consistency with the Constitution, as Referenced in 42 U.S.C. 1988.	12
CONCLUSION	12
RULE 44 CERTIFICATE	14

TABLE OF CONTENTS – Continued

Page

APPENDIX TABLE OF CONTENTS

Appellant’s Reply Brief (October 7, 2021)	1a
Appellant’s Brief (September 14, 2021)	15a
Notice of Supplementing Discovery Disclosure (September 1, 2021)	48a
Plaintiff’s Opposition to Defendants’ Motion to Compel Medical and Other Authorizations with Claims of Not Receiving Discovery Requests (August 20, 2020)	76a
Civil Docket for Case #: 3:19-cv-00269-KHJ-LGI (April 19, 2019)	101a

TABLE OF AUTHORITIES

	Page
 CASES	
<i>American Cyanamid v. Capuano</i> , 381 F.3d 6 (1st Cir. 2004)	11
<i>Cariglia v. Hertz Equip. Rental Corp.</i> , 363 F.3d 77 (1st Cir. 2004)	11
<i>Chafin v. Chafin</i> , 568 U.S. No. 11-1347 (2013)	9
<i>Goldberg v. Kelly</i> , 397 U.S. 254 (1970)	12
<i>Goodyear Tire & Rubber Co. v. Haeger</i> , 137 S.Ct. 1178 (2017)	8
<i>Lee Cnty. Dep't of Transp.</i> <i>v. The Island Water Ass'n, Inc.</i> , 218 So.3d 974 (Fla. 2d DCA 2017)	10
<i>Payne Realty v. First Sec. Bank</i> , 844 P.2d 90 (Mont. 1992)	10
<i>Taylor v. Bayview Loan Servicing, LLC</i> , 74 So.3d 1115 (Fla. 2d DCA 2011)	10
<i>U.S. v. Gilbertson</i> , 435 F.3d 790 (2006)	11
 CONSTITUTIONAL PROVISIONS	
U.S. Const. amend. XIII	5
U.S. Const. Art. III, § 1-2	9
 STATUTES	
42 U.S.C. § 11601 et seq	9
42 U.S.C. § 1983	5

TABLE OF AUTHORITIES – Continued

	Page
42 U.S.C. § 1988.....	5, 7, 12
49 U.S.C. § 32703(2)	11
49 U.S.C. § 32709(b)	11
Civil Rights Act of 1866.....	6

JUDICIAL RULES

Fed. R. Civ. P. 11.....	8
Fed. R. Civ. P. 55.....	4
Fed. R. Civ. P. 56(c)	10
Fed. R. Civ. P. 56(c)(1)	10, 11
Fed. R. Civ. P. 59(b)	3
Fed. R. Civ. P. 60.....	3, 5, 8, 9
Fed. R. Civ. P. 61.....	7

EXECUTIVE ORDERS

Ex. Ord. No. 12778, 56 Fed. Reg. 55195 (Oct. 23, 1991), Justice Reform	5
Ex. Ord. No. 12988, 61 Fed. Reg. 4729 (Feb. 07, 1996), Civ. Justice Reform.....	5
Ex. Ord. No. 13985, 86 Fed. Reg. 7009 (Jan. 20, 2021) Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.....	2, 5



STATEMENT OF JURISDICTION

Pursuant to Rule 44.2, Christy Poon-Atkins, P.E. respectfully petitions for rehearing of the Court's order denying HER writ of certiorari in this case.



GROUND FOR REHEARING

The writ of certiorari petition in this case included critical questions associated with essential elements of the judiciary process where civil rights, human rights, Constitutional rights, and the statement of entitlement confirmed in the Articles of Confederation were miscarried through implementation. Here in this case, the Plaintiff suffered increased injury at multiple levels of judicial review, where the Plaintiff presented evidence of pervasive inequities that tend to be present against underserved and disadvantage societal groups. The Plaintiff's opportunity for due process further experienced aggravation by multiple judicial reassignments. The actions that led to continued obstruction against the Plaintiff were ministerial in nature, but the implicit wrongful implementation of such duties exhibited discretionary execution of ministerial duties. The very essence of condoning such pervasive intrusion of protected interests, human rights, civil rights, and those entitlements waged for Constitutional contractual consideration within both the effective sections of the Articles of Confederation, as also with basis within the Magna Carta for all progenies. Any implementation contrary to foundational

considerations bargained-for would constitute breaches severally proven and substantiated throughout societal performance outcomes with blatant depictions of oppressive disparities plagued throughout underserved and disadvantaged communities. The term “underserved communities,” incorporated in Executive Ord. No. 13985. Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, refers to populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life, as exemplified by the list in the definition of “equity,” as the Plaintiff is of multiple spectrums included in the equity E.O. 13985 definition, with the first descending from early Black Indigenous Tribal Civilizations, commonly referred to as Black.

The type of permitted unconstitutional acts along with defense attorneys’ misconduct directed stress and duress on the Plaintiff, while denying the Plaintiff HER rightful inheritance of fundamental entitlements of all freedoms that HER heritage from early Indigenous Civilizations promised. Furthermore, the Plaintiff’s unfringed rights are due from even the earliest times and further defined in governance doctrines and contracts. Here in this case, the Plaintiff has repeatedly presented judicial and defense attorney violations that led to infringement of the Plaintiff’s civil rights, human rights, Constitutional rights, protected interests and disregard to Plaintiff’s inherited rights also confirmed by the statement of entitlement confirmed in the Articles of Confederation, all of which has a consideration basis in the Magna Carta. The Plaintiff must not continue to experience disre-

gard with misplaced classification as insignificant, where the offenses that the Plaintiff experienced are of significant nature with broadscale adverse impact on underserved and disadvantaged communities. The Plaintiff's filings show the Plaintiff right to a fair trial was infringed upon by defense counsel misconduct throughout the discovery process as well as clerical mistakes, oversights, and omissions that led to judgement against the Plaintiff. Throughout district court, appellate court, and the supreme court filings, the Plaintiff presented grounds for relief from a final judgement, order, or proceeding, per Fed. R. Civ. P. 60. In this case, the Plaintiff confirms that HER filings show the Fed. R. Civ. P. 60 criteria have been met for HER position of seeking relief; inclusive of: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that had been reversed or vacated; or applying it prospectively is no longer equitable; or (6) any other reason that justifies relief. The Plaintiff was misrepresented by the defense counsel to the district court, where an example of such misrepresentation was presented to the Supreme Court in the Plaintiff's writ of certiorari, as App. 33a and App. 39a to process an order. The writ of certiorari App. 33a & App. 39a show one of the instances of the defense counsel's misconduct and discovery abuse that the Plaintiff experienced. The defense counsel altered the agreement page and attached the Plaintiff's signature

page to the altered agreement page, without the Plaintiff's knowledge, at the time the court signed the order. The original order that the district court signed was not a mirror image of the order agreement that the Plaintiff's signature page was attached to. Here, the district court record includes evidence of disrupted mutual assent because of misrepresentation, in which the district court did not originally sign the mirror image order. This instant of defense counsel's bad faith reflects failed formation for the subject order. The district court final judgment also overlooks the defendants' admission to speeding in reckless conduct in their own report [App. to Pet. Reh'g 51a] because of the clerical mistakes, oversights, and omissions from the record on appeal. The defendants' admission to reckless conduct corroborates the Plaintiff's incident report [App. to Pet. Reh'g 59a] that uses engineering equations to also show that the defendants were speeding [App. to Pet. Reh'g 60a]. As a result, the district court's final judgment has no factual basis that could lead to a matter of law judgment. The extensive grievances, that the Plaintiff continues to suffer, support relief by Default Judgment for the Plaintiff, per Fed. R. Civ. P. 55.

Furthermore, from the pervasive standpoint of the exterior façades leading to misplaced antiquated principles guiding operations that subject progenies to such offensives also stand as evidence of breaches to even 13th Century promises, as presented throughout the Plaintiff's filings at all judicial proceeding levels. A lower court precedent that not only provides an avenue for false information to sway judicial decisions, but also allows discovery abuses, while such judgment openly and knowingly facilitate continued

oppressions that support perpetuated disparities and lead to continued abuses and usurpations. The noted injustices in this case are consistent with systemic injustices highlighted in Ex. Ord. No. 13985. Such a social misfortune creates an expanded array of damaging common law. The defendants have not produced any legally binding source of law that allows discretionary maneuvering to best fit a case position. The proper adherence to hierarchical sources of law must not be sacrificed by conforming to implicit biases that create repeat disadvantages for a party, as warned against in Ex. Ord. No. 13985 with proposed initiatives to mend severely exacerbated inequities. Additionally, the prohibited actions that warrant relief, per Fed. R. Civ. P. 60, were also warned against in Ex. Ord. No. 12778 for Justice Reform, subsequently as Ex. Ord. No. 12988 for Civil Justice Reform. Any action to dismiss or deny the Plaintiff's just and good cause of action, as deemed by the district court, [App.47a], is a direct violation of the contractual obligations, for which under Amendment XIII, congress shall have power to enforce Article I protections, and as appropriate, the related state judiciary function must be consistent. Furthermore, establishing such common law precedence violates 42 U.S.C. § 1988 and only creates a pathway towards regressive practices that are incompatible with today's technologically advanced society. A regressive nature in societal practices, which condones targeted oppression, only prompts constrained lives of struggle, and creates avenues for continued inequities and disparities, concerning deprivation of rights under 42 U.S.C. § 1983.

I. THIS COURT SHOULD GRANT REHEARING TO REASSERT PROPER EXECUTION OF MINISTERIAL DUTIES, CONSISTENT WITH THE CONSTITUTION AND ARTICLES OF CONFEDERATION, AS DISTINCT FROM DISCRETIONARY DUTIES.

Petitions for rehearing of an order denying a writ of certiorari are granted: (1) if a petition can demonstrate grounds associated with “intervening circumstances of a substantial or controlling effect”; or (2) if a petitioner raises “other substantial grounds not previously presented.” R. 44.2. The Petitioner’s plea for rehearing shows both criteria that supports granting rehearing of an order denying a petition for a writ of certiorari. This Court’s denial of the Petitioner’s writ of certiorari on October 3, 2022, set a circuit and district level common law precedent that invites pervasive abuse with usage where similar ministerial issues are concerned. The fundamental essence of ensuring unalienable Rights promised through foundational governing documents, where Life, Liberty, and the pursuit of Happiness remain secured as constitutionally protected interests in perpetuity for all progenies and citizens of the United States must not be infringed upon. It is damaging with unequivocal disastrous potential to adversely affect any progress gained towards the Declaration of Independence expressed entitlement to equal stations to which the Laws of Nature and Nature’s GOD for decent respect for equality among all. The issues here create conflict, where common law enables the very behavior which could continually infringe upon the intent of the Articles of Confederation, Declaration of Independence, Constitution, and Bill of Rights, for which all are directly tied to the Civil Rights Act of 1866. The

aforementioned poses critical risks by which the requirements in 42 U.S.C. § 1988 explicitly outline proceedings in vindication of civil rights for jurisdiction in civil and criminal matters conferred on the district courts by the provisions of the United States Code (U.S.C.) titles 13, 24, and 70 of the Revised Statutes for the protection of all persons in the United States in their civil rights, and for their vindication, as must be properly exercised and enforced.

A. The Matter of the Plaintiff's Discovery Admission Production Raised to the District Court in Plaintiff's Motion to Object [ROA 371] [App. to Pet. Reh'g 76a] and Settled with District Court Decision [App.42a] & [App.36a] Prior to the District Court Final Judgment.

The district court final judgment also overlooks the fact that the Plaintiff's discovery admissions production issue was raised and settled with Plaintiff's responses to the district court's June 29, 2020 [App. 45a], and August 13, 2020 [App.43a], court orders, with the final associated order more than five months prior to the district court's final judgement. Here, in the Plaintiff's motion [ROA 371] [App. to Pet. Reh'g 76a], the Plaintiff presented defense counsel misconduct with the Plaintiff's medical records and misrepresentation to the court. With fines levied and no avail of relief to the Plaintiff / Petitioner, the situation led to the Plaintiff developing filings with medical record attachments under duress. The fact that the district court's final judgment used a previously raised and settled issue, per Fed. R. Civ. P. 61, prompts an issue estoppel conflict in the district court's final judgment. The district court's final judg-

ment also overlooks material evidence concealed and omitted because of the actions associated with clerical mistakes, oversights, and omissions, as grounds for relief from a final judgment. *See* Fed. R. Civ. P. 60. Due to the sensitive nature of information produced in this case, the appendix for this petition for rehearing includes main filings without the appendices. In *Goodyear Tire & Rubber Co. v. Haeger*, 137 S.Ct. 1178 (2017), Goodyear's first dishonest discovery response prompted action by the lower court, and later led to several opinions concerning discovery misconduct as well as misrepresentation in pleadings, motions, and other papers per Fed. R. Civ. P. 11. Here, in this case the Plaintiff / Petitioner was the party fined, although the misconduct, misrepresentation, mistakes, oversights, and omissions were results of the defense counsel's and district court's actions.

B. The Federal Circuit Court Does Not Firmly Conclude the Nonexistence of Material Facts, as Facts Must Be Presented to a Jury.

The Petitioner, Christy Poon-Atkins, points to the fact that the United States District Court Southern District of Mississippi Record on Appeal included errors with transmission to the U.S. 5th Circuit Court. The Plaintiff's appeal from the district court's decision was with the fact that critical documents within the district court's record, were not factored in the district court's final judgment nor was the complete record produced with the Record on Appeal (ROA). The Plaintiff did not have access to the same ROA submitted to the Appellate Court within the Appellate Court's electronic database, because the Plaintiff is a pro se litigant.

The Appellate Court's opinion dated January 10, 2022, is missing acknowledgement of records within the ROA. The subject records would address the issues discussed within the Appellate Court's analysis. The inconsistency with the ROA, is highlighted within the case Discovery issues. Additionally, the Appellate Court's opinion includes statements about the Plaintiff's responsiveness to the Defendants throughout Discovery, as contrary information is in the district court's records and reflected in the ROA. The Discovery issues dealt with confusion initiated by the Defendants' misconduct with repeat falsehoods, district clerk mistakes and omissions from the record, and the Defendants' misrepresentation of the Plaintiff to the district court. [Pl's Resp. to Defs' Mot. to Compel (Nov. 13 2020), District Doc. #113.] The Petitioner continues to be denied just relief per the Fed. R. Civ. P. 60, where default judgment for the Petitioner is supported as matter of law.

In *Chafin v. Chafin*, 568 U.S., No. 11-1347, (2013), the Supreme Court of the United States delivered the opinion for a unanimous Court, which also provided clarification of judicial limitations outlined in the Constitution Article III. The unanimous Court opinion expanded upon 42 U.S.C. § 11601 et seq. and was supported by concurring opinions. However, on all accounts, this case is absent at all levels, any reference to applicable codes that relate to the issues raised, as presented in the Plaintiff's writ of certiorari and in prior filings. Furthermore, in this case, there is a lack of analysis with case law that shows a standard of review that dispels the presumption of the existence of material evidence. To determine the nonexistence of a genuine issue of material facts, the

fact finding must openly look to all pleadings, depositions, discovery answers, and other affidavits.

In consistent application of law and procedures, summary judgment is a remedy which should be granted when there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. However, in the case that the Petitioner has repeatedly cited particular parts of the record that point to the existence of material evidence that highlight genuine disputes. Furthermore, the Petitioner produced material evidence, which further demonstrated that the elements of summary judgment continue to not be met. Additionally, all court records show that the Petitioner's cited material evidence of fact continues to be absent in decisions. *See* Fed. R. Civ. P. Rule 56(c). The procedure should never be substituted for trial if a material factual controversy exists. *See Payne Realty v. First Sec. Bank*, 844 P.2d 90 (Mont. 1992). In consistent approach, in the Fla. Dist. Ct. App., the decision acknowledged that when there is a genuine issue of material fact, or even the slightest inference or doubt that a material factual issue exists, that doubt must be construed against the moving party and the motion denied. *Id. quoting Taylor v. Bayview Loan Servicing, LLC*, 74 So.3d 1115, 1117 (Fla. 2d DCA 2011); *Lee Cnty. Dep't of Transp. v. The Island Water Ass'n, Inc.*, 218 So.3d 974 (Fla. 2d DCA 2017), on summary judgment.

In any case where there remains a dispute of material facts, such facts must be presented to a jury. *See* Fed. R. of Civ. P. Rule 56.(c)(1).

C. The Fundamental Question of Due Process in Accordance with the Constitution Remains an Issue Among Others.

The Plaintiff cites, *Cariglia v. Hertz Equip. Rental Corp.*, 363 F.3d 77, 82 (1st Cir. 2004), where it was determined in the United States Court of Appeals for the First Circuit that there was no need to address whether, the Appellees animus further infected the decision-making process by manipulating information regarding four items mentioned in the subject security report. Just as “*Id.*” highlight manipulated information must not be regarded as acceptable for judiciary decision-making, there is significant societal harm in establishing common law that permits discretionary preference as official action for ministerial duties. As in *American Cyanamid v. Capuano*, 381 F.3d 6, 21 (1st Cir. 2004) a fact-finding discrepancy would not meet the elements for summary judgment, exemplifying a breakdown in proving adherence to procedures supporting factual positions. See Fed. R. of Civ. P. Rule 56(c)(1). Similarly, in *U.S. v. Gilbertson*, 435 F.3d 790 (2006), in the 7th Circuit, actions to knowingly alter the odometer mileage on vehicles with the intent to sell such vehicles is a direct violation of 49 U.S.C. §§ 32703(2) and 32709(b) and deemed a criminal act.

**D. Lower Court Decisions Do Not Reflect
Consistency with the Constitution, as
Referenced in 42 U.S.C. 1988.**

Here, the common law in question supplies a process and procedure for denying the Petitioner the right to a jury trial, where material facts are concerned. Such common law is inconsistent with the Constitution and laws of the United States and stands to exacerbate harm on underserved and disadvantaged communities.



CONCLUSION

As professed in the Declaration of Independence, the Laws of Nature and of Nature's GOD includes the Plaintiff, as a descendant, is an intended beneficiary of the equal entitlement to the full extent of the rights afforded without infringement and contractual breach. There must be every effort to avoid disenfranchising any aspect of the Plaintiff's enjoyment of Life, Liberty, and the pursuit of Happiness. The lower court reviews and actions do not support this Court's denial of Christy Poon-Atkins' petition for certiorari. The misconduct, misrepresentation, mistakes, oversights, and omissions, presented herein, and within prior district court, circuit court, and Supreme Court filings, prove that there is a substantial need for this Court's intervention. When it comes to a decision on property entitlement, in *Goldberg v. Kelly*, 397 U.S. 254 (1970), the Supreme Court of the United States' position confirmed a person's right to protected property interest in a benefit if he or she has a "legitimate expectation of receiving that benefit." Christy Poon-Atkins' petition

for rehearing should be granted, as HER entitlement is confirmed due to HER, as a descendants of the earliest Pangean and later American Indigenous Civilizations.

Respectfully submitted,

CHRISTY POON-ATKINS
PETITIONER PRO SE
PROFESSIONAL ENGINEER
No. PE031751
1866 ALCOVY TRAILS DRIVE
DACULA, GA 30019
(678) 517-5979

OCTOBER 28, 2022