

ORIGINAL

21-177

No.

IN THE

Supreme Court of the United States

DANOS KALLAS,

Petitioner

v.

THERESA L. EGAN

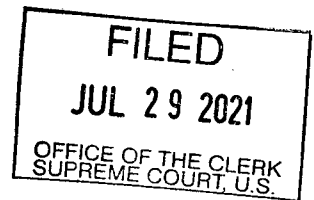
as the Executive Deputy Commissioner of the
Department of Motor Vehicles of the State of New
York,

Respondent

On Petition For A Writ Of Certiorari
To The United States Court Of Appeals For The
Second Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

1. "Whether the civil enforcement system should be modified nation-wide to integrate an educational option (with limitations for repeat offenders and retention of checks on citizen abuse) that would substantially dampen the effects of discrimination and arbitrary taxation, educate the public, and improve police-community relations and the public's perception of the police, and information sharing, in order to comport with Equal Protection and Due Process and the compelling, common sense, interest in information sharing between the public and the police..." *Kallas v. Fiala*, 591 Fed. Appx. 30 (2d Cir. 2015), No. 14-310, 2015 WL 399127 (2d Cir. Jan. 30, 2015) SUMMARY ORDER, *reh'g denied*; No. 13 Civ. 8816 (GBD) (S.D.N.Y. Jan. 13, 2014), *cert. denied*, *pet. for cert.* at (i).

2. Whether "...the statutes are also Unconstitutional under Equal Protection and Due Process because they do not integrate an objective progressive (sliding scale) fine schedule, thereby having the effect of disproportionately burdening minorities (who are proven, as a populace, to be less able to pay fines) and suppressing their upward mobility despite same being purportedly a key component of the American way of life. Thus, another problem with the "broken windows" view, other than that it also incorrectly presumes (at least until recently?) that enforcement is even-handed at this threshold, is not in its principle or that it apparently has the effect of lowering over-all crime but in its effect on minorities who are paying an unfairly disproportionate share of the cost and remaining

oppressed with this oppression playing a substantial inexorable role in ensuing events leading to "burned down buildings." *Kallas v. Fiala, Id., pet. for cert.* at 4.

3. Whether the court erred in not granting *de jure* relief for questions presented 1. And 2. (above) and the closely relevant supplemental substantive issues and remedies contained in the Complaint as well as others developed during the course of the litigation and brought in this second petition for certiorari specifically described and explained by Petitioner in a clear and unequivocal way that virtually all literate American citizens would understand (without specific codified citations) and all continued to be proven by ensuing events where molehills (ie. minor routine traffic stops) turn into mountains (homicides of fellow American citizens) noting " [w]hether it matters that Petitioner's positions on these issues have been proven by ensuing events - including, but not limited to, the civil unrest stemming from the homicide of an American citizen during his arrest for selling loose cigarettes, the tackling of a pregnant American citizen for interfering with the arrest of her son over a civil marijuana possession charge, the homicide of an American citizen stemming from an arrest over a pocket knife and, less on point but still relevant, the murder of an American citizen stemming from a traffic stop (where there is virtually always a law somewhere in the civil traffic code that a police officer can cite in order to stop a motor vehicle) (?) where these incidents involved the enforcement of low threshold offenses that caused, or resulted in, many subsequent high threshold offenses (ie. civilian assaults, and even assassinations, of police officers) triggered, in no small part, by the underlying public

dissatisfaction with the current system for the enforcement of civil, or low threshold, offenses (because the public is aware of the *per se* Unconstitutionally pervasive level of discrimination at this threshold?), and continued spill-over therefrom can be more than reasonably be presumed and there are many more similar incidents that do not get national publicity but nonetheless exacerbate this national problem." *Kallas v. Fiala, Id., pet. for cert.* at (i) - (ii).

4. Whether the court erred in its determination that Article III precluded the court from exercising jurisdiction over the case, whether Petitioner waived his right to amend the complaint for insufficiently setting forth a cause of action in the Complaint (summarily) and whether, nonetheless, the circuit court could reverse the district court's *de facto sua sponte* waiver of objection to Petitioner's objections to the R&R and the *de jure* relief sought.

5. Whether, irrespective of the above, the Branches should facilitate a meaningful compulsory safety valve(s) for citizens proceeding *pro se* and *gratis* to protect or defend their homeland under the 2nd Amendment right to bear arms in the form of the pen - subject to pre-conditions, burdens and deterrents (as more particularly described and explained in Petitioners several submissions) - to break through negative impacts on the national citizenry caused by nonfeasance, misfeasance or malfeasance by and/or between the Branches as well as counterbalance the generally less desirable traditional right to bear arms whether or not the founding fathers foresaw the need for safety valves because the American people should

not have to wait in sufferance for the materially inevitable *de jure* relief sought simply – and unreasonably – because there is currently a time gap between when everyone knows or should know the relief they need but there is – at least to date – no compulsory mechanism in the federal system to bring them said relief while unreasonable, unnecessary harm continues to befall them (in the absence of sole or concerted action by and/or between the Branches) and **there is still no reasonably explained rebuttal to any of the substantive national federal issues brought by Petitioner in the history of the litigation (because there is none)** and, nonetheless, whether the federal government can impose a duty on its citizens to involuntarily protect or defend their homeland (ie. the draft) yet, in stark contrast, deprive its citizens of a safety valve(s) to voluntarily seek meaningful limited compulsory break through relief while describing citizens not acting in an official capacity as “bystanders” instead of “fellow citizens and family members” (which also explains why so much unreasonable, unnecessary and improper domestic harm occurs where citizens, perceiving themselves as mere bystanders, fail to come to the aid of fellow citizens – including the police).

6. Whether the time is long overdue for everyone to “throw in the towel” on discrimination and, without reference to this case, begin to provide all Americans with *meaningful genuine* uniform nationwide consistent rules (including those sought *de jure* in this litigation) to level the playing field and begin the peaceful and constructive healing of our nation’s domestic problems pertaining to police-community relations and civil peace.

7. Whether the American people would be content that they were served without the initial *de jure* resolution (including the initial remedies therefor) of the substantive national federal issues presented herein and whether they can afford to wait longer for Petitioner (provided he is not deceased or permanently disabled and has the opportunity) to return for yet a third round to get the people their *de jure* relief while prolonged unreasonable, unnecessary harm continues to befall the American people.

OPINIONS BELOW

The January 22, 2021 opinion (summary order) of the court of appeals, whose judgment is herein sought to be reviewed, *Kallas v. Egan*, No. 20-717 (2d Cir. Jan. 22, 2021) SUMMARY ORDER, *reh'g denied*; No. 18 Civ. 12310 (VEC) (S.D.N.Y. Jan. 30, 2020), is reprinted in the Appendix to this Petition, page(s) 3-16, and the order denying rehearing thereof, dated March 12, 2021, is reprinted in the Appendix to this Petition, page(s) 52-53, respectively. The prior Memorandum, Opinion and Order of the United States District Court for the Southern District of New York, dated January 30, 2020, is reprinted in the Appendix to this Petition, page(s) 17-29. The prior Report and Recommendation of the Magistrate Judge of the United States District Court for the Southern District of New York, dated March 1, 2019, is reprinted in the Appendix to this Petition, page(s) 30-43. The prior Order to Show Cause of the Magistrate Judge of the United States District Court for the Southern District of New York, dated January 17, 2019, is reprinted in the Appendix to this Petition,

page(s) 44-51. "Constitutional Provisions, Treaties, Statutes, Rules And Regulations Involved" are included in the Appendix to this petition, page(s) 54-57.

JURISDICTION

The judgment (summary order) of the court of appeals was entered on January 22, 2021, and is reprinted in the Appendix to this Petition, page(s) 3-16, and the petition for rehearing was denied on March 12, 2021, and is reprinted in the Appendix to this Petition, page(s) 52-53. The jurisdiction of this court is invoked pursuant to 28 U.S.C. Section 1254(1).

CONSTITUTIONAL PROVISIONS, TREATIES, STATUTES, RULES AND REGULATIONS INVOLVED

United States Constitution

Amendments

I, II, IV, V, X, XI, XIV

Articles

III (Section II), VI (Clause II)

Statutes

28 U.S.C.A. Section 1254(1)

28 U.S.C. Section 1331

42 U.S.C. Section 1983

New York State Vehicle and Traffic Law, Section
1110(a)

New York State Vehicle and Traffic Law, Section
1229-c(3)(a)

STATEMENT OF THE CASE

In a prior case, (*Kallas v. Fiala, Id.*) Petitioner had the opportunity to challenge two *per se* Unconstitutional arbitrarily issued civil traffic tickets (issued in mid-town Manhattan, New York under New York State Vehicle and Traffic Law, Sections 1110(a) and 1229-c(3)(a)) - including the Constitutionality of the issuance thereof, the enforcement thereof, the remedies of the statutes thereof, his conviction thereof, and the judicial process pertaining thereto and despite providing remedies that would, with zero substantive objection, improve police-community relations and civil peace, the courts would not allow the reopening of the case after a procedural blunder by Petitioner resulting eventually in the denial of a prior petition for certiorari review by this court.

After the passage of several years, Petitioner returned to the federal District Court for the Southern District of New York to finish the job of serving the best interests of the American people (including the submission of additional closely related issues and initial sufficient remedies therefor) because the American people had still not received sufficient relief.

The courts erroneously found that Petitioner neither gave what it takes nor endured the harm that it takes to justifiably "walk through the doors of a federal court" for relief. Notwithstanding, Petitioner persists with this petition for certiorari review to get the American people their fullest proactive and preemptive relief and get this ball fully into the end-zone as explained hereinafter.

SUMMARY OF THE ARGUMENT

Even if the circuit court did not err in affirming the dismissal of the district court for the reasons stated and not conceded by Petitioner, Article III neither absolutely prohibits public interest litigation (nor would Petitioner's Complaint fail to state a cause of action for lack of actionable concrete harm) thereunder because this litigation is *pro se* and *gratis* 2nd Amendment safety valve litigation unforeseen (or mistakenly not included) by the founding fathers particularly where the Constitution has in this regard failed to perform its own purpose of serving the people. That the courts are the Constitutional structural creation of Congress (summarily) does not make the Judicial Branch any less coequal nor could Congress reasonably complain where the courts serve to check its own failures or those of the Executive Branch. Where the checks and balances leave a harmful void, there is an undeniable need for a safety valve(s) unless everyone wants to deal the American people a lower hand (an unjustifiably less perfect union with unjustifiably less perfect results).

ARGUMENT

Because this a ground-breaking case of first impression, there is no reasonably synthesizable procedural precedent (from this universe) and Petitioner, while maintaining all existing positions, blaring distinctions, and rebuttals pertaining to same and incorporated by reference, sticks to the roots of the Constitution and the intent and/or errors of the founding fathers.

Perhaps everyone should rethink what the 2nd Amendment really means and how it should be interpreted in contemporary American society with citizens being redirected to exercise their 2nd Amendment rights by bearing arms in the form of the pen with the by-products being constructive and counter to civil unrest and violence (as well as uniform nationwide gun control laws with no independent state grounds).

The same way the founding fathers and their successors were in error prior to the abolition of dueling (to the death) on reasonable and rational grounds, they remain in error absent the initiation of 2nd amendment citizens' break through safety valve litigation despite virtually the same reasonable and rational grounds applied in the converse context.

Give our citizens' (including juveniles subject to special considerations) some "teeth" (a "crack in the door" for limited compulsory judicial and/or other Branch relief without opening a "floodgate") with a *genuine* and *meaningful* right to bear the pen resulting in the world's leading democracy (going even further than the leading European democracies have gone) with the most efficient democratic government in the world or deprive our citizens and, thus, our nation this right resulting in a continuing flawed democracy with a citizenry that continues to suffer prolonged unreasonable, unnecessary and improper harm on an ongoing perpetual repetitive basis because of structural deficiency.

Though Petitioner breaks ground on the 2nd

Amendment citizens' safety valve petition format (as contemplated in prior submissions) in uncharted waters, the Branches may develop a somewhat different safety valve(s) but, in the absence of an existing procedure, no one could reasonably complain that the procedure followed by Petitioner was deficient because there is no other procedure in place for compulsory relief and neither Respondent nor anyone else cured.

Citizens seeking the use of a safety valve should be strongly discouraged and deterred by the rules so that only the most important cases reach substantive resolution and only the most patriotic citizens would pursue it - given what they face - as described and explained in detail in Petitioner's submissions where the intent of the courts should be the minimization of occurrence (a "crack in the door" without opening a "flood gate") and the maximization of substantive results with an abundance of safeguards that will insure that no judicial rulings will result in any unreasonable undue radical change (as has also been somewhat proven in the history of this litigation).

It seems that it is neither an objective standard nor a subjective standard but a dual standard the courts should apply on a cases by case *ad hoc* basis to determine actionable harm? Yet, nonetheless, even if the courts do not find concrete harm to a citizen-litigant under either standard, this should not prohibit relief if there is a "win (somewhere) in it" for the people. Where citizens bear ripe fruit, the people should receive it though citizens with the sole or additional motive of fame or fortune or other benefit(s) - not proceeding truly *gratis* - should be dealt with as

such and denied any conceivable direct or consequential benefits as the courts should arrange notwithstanding that truly *gratis* citizens would nonetheless expect and receive the same result. The nation should "reap the fruit" and the citizen should "get the boot."

Further, that Petitioner is not a minority citizen member of the class is irrelevant because the class is the American people. To claim that there is no standing under these circumstances is to permit harm to befall minorities where a citizen seeks to protect their interests (consistent with the national interest) in Equal Protection and fundamental fairness consistent with the very object of the courts in maintaining one of their principal purposes notwithstanding that Petitioner is in it to protect the entire American citizenry and the cards should fall for all groups therein virtually wholly consistent therewith.

There are zero cases cited where a bare bones United States citizen (for their part) proceeded *pro se* and *gratis* in the face of all adversity (and under onerous burdens and deterrents, and conceded limitations on remedies), waived objections to the transfer or sharing of venue, substitution and/or addition of counsel, and any participation of any fellow citizen(s), and has mandatorily remained available to finish this job until deceased or permanently disabled or the American people win, whichever is sooner (with all future similarly situated citizens being expected to comply with all of the same). Notwithstanding the pre-existing ongoing controversy, this is nonetheless, together with all

other factors mentioned herein, a legitimate "last line of defense" Article III controversy.

The American people have some of the germane substantive national federal remedies they need in the Complaint and submissions thereafter including the monumental remedy of 2nd Amendment break through safety valve litigation developed during this case (subject to modification). The courts have largely *sua sponte* apparently denied them sufficient proactive and preemptive *de jure* relief.

REASONS FOR GRANTING WRIT

This Court should review all submissions of Petitioner and all other participants and proactively and preemptively announce (reasonably closely) all of the germane substantive *de jure* relief sought to take immediate effect and/or firmly set it on the horizon *de jure* (in the court's discretion) - including the setting of guidelines, at least in prototypical form, for future citizens' 2nd Amendment break through safety valve litigation - with further modification left open and deny, or otherwise dispose of, this petition (thereby being rendered moot by cure) or set a less desirable leading example and grant this petition with the same result because (and in addition to all of the reasons stated herein and incorporated by reference hereto) the interests of the American people in the germane substantive *de jure* resolution of all of the germane national federal issues dwarf all other considerations that could otherwise bar resolution.

CONCLUSION

For the foregoing reasons, trusting that the "hand-off" is done, Petitioner respectfully prays that this honorable court share the ball and finish bringing the ball into the end-zone for a complete win for the American people.

Dated: July 28th, 2021
Respectfully submitted,



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