

No.

21-236

Supreme Court, U.S.
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OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

CHARLES A. DREAD

PETITIONER

vs.

MARYLAND STATE POLICE

RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

(1) Was the Trial Court's denial of the Petitioner's Motion for Summary Judgment and Request for Hearing without granting the Petitioner a Hearing he requested, legally correct when **Maryland Rule 2-311(f)** requires the Trial Court to hold a Hearing before rendering a decision disposing of a claim or a defense?

(2) Petitioner's evidence raised substantial issues of fact as to whether Petitioner was Fired/ Retired because of a Subjective belief, and if so, whether his Discharge/ Retirement eventuated from the Racial Disadvantage permitting a White Woman in his Patrol Unit where a Hand Gun was Found while assisting this Person from and to Police Units.

See, (**Battle v. Mulholland**, C. A. Miss. 19971, 439 F.2d 321.)

(3) Whether State Respondents knew or reasonably should have known that the Action they took within their shear of Official responsibility when they evicted Petitioner from Public Market would violate Constitutional Rights of Petitioner and whether Respondents took such Action with Malicious Intention to cause a Deprivation of Constitutional Rights or Other Injury to Petitioner are Questions of Fact.

See, (**Wilder v. Irvin**, D.C. GA. 1976, 423 F. Supp. 639.)

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR AN EXTRAORDINARY WRIT

Petitioner respectfully prays that a Writ of Certiorari issue to review the Judgment below.

OPINIONS BELOW

☒ For cases from state courts The United States Court of Appeals for the fourth Circuit

.....
☒ The opinion of the highest state court to review the merits appears at Appendix A&B to the petition and is

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☒ is unpublished.

The opinion of the United States District Court

Appears at Appendix C & D to the petition and is

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☒ is unpublished.

LEWIS vs. CITY OF CHICAGO, IL (08-974)

EMPLOYMENT DISCRIMINATION
CIVIL RIGHTS ACT TIMELY FILING OF CLAIM

Petitioners, Arthur L. Lewis, Jr., et al. ("Lewis"). A group of AFRICAN AMERICANS who applied to become firefighters in Chicago sued the City under the Civil Rights Act of 1964, claiming Chicago's use of an eligibility test had a disparate racial impact on African Americans, effectively resulting in employment discrimination. The plaintiffs won their discrimination lawsuit in the Federal District Court. See, (LII Supreme Court Bulletin, pg. 228-235)

JURISDICTION

Comes now Petitioner, Charles A. Dread, files this Appeal pursuant to Rule 11 and 33.2 of the Supreme Court of the United States and 28 U.S.C. Section 2101(e) and section 1253 that the Writ will be in Aid of the Court's Appellate Jurisdiction, in that, Exceptional Circumstances warrants the Exercise of the Court's Discretionary Powers, and that Adequate Relief cannot be obtained in any other Form or from any other Court.

The Administrative Trial Board Hearing in Maryland State Police v. Charles A. Dread IAU. Case No. U-31-00037 dated April 25, 1991; David L. Moore (Attorney at Law) Files an Appeal in the Circuit Court for Baltimore County Third Judicial Circuit for Maryland, under Case No. 91CG2266 Docket 94 page 295 for Due Process Violations. Attorney David L. Moore files a Motion to withdraw his Appearance as Counsel for Petitioner, in which, the Court ordered on the 21st day of August 1991 after obtaining the Appeal from The Administrative Hearing (IAU-Case No. U-31-00037) in the Circuit Court for Baltimore County.

On July 14, 1994; Dismissal deferred for 30 days, in which, the Petitioner files a request for Rehearing on August 11, 1994. On August 19th; 1994, Petitioner files a Petition for Rehearing with Memorandum. August 25, 1994, the Honorable L. R. Daniels Rules that there was no Certificate per Rule 1-323 on paper #12. Petitioner's Certificate of Compliance per Rule 1-323 was filed on September 22nd, 1994, and on November 3rd, 1994; Order of Default denied.

On November 14, 1994, Petitioner Appeals to the Special Court of Appeals, filing a Petition for Appeal with Memorandum. On December 13, 1994; Order from the Court of Special Appeals Directs that the above captioned appeal (Case NO. 91CG2266) proceed without a Prehearing Conference filed (rec'd 12/12/94). January 30th, 1995, Notice from Court of Special Appeals, Denied Motion and Motion for leave to Appeal in Forma Pauperis.

The Brief of the Petitioner is to be filed with the Office of the Clerk on or before March 14th, 1995. (Rule 8-502 (a) (1)). On April 3rd, 1995, the Motion to Dismiss filed by Counsel for Respondent. April 24th, 1995, Petitioner files his Opposition to Respondent's Motion to Dismiss. April 25th, 1995; Respondent's Motion to Dismiss was Granted.

May 8th, 1995, Petitioner files a Motion for Reconsideration of Dismissal. On May 31st, 1995, Petitioner's Motion was denied. The Mandate from the Court of Special Appeals was issued on June 8th, 1995. On October 12th, 1995, the Petition Docket No. 264, Sept. Term 1995; (No. 1991, Sept. Term 1994, Court of Special Appeals), the Court of Appeals of Maryland denied Petitioner's Petition and Supplements, as there has been No Showing that Review by Certiorari is desirable and in Public Interest.

Upon Consideration of the Motion for Reconsideration, filed in the Court of Appeals of Maryland, the Court Ordered, on the 15th day of December, 1995, that the Motion be, and it is hereby, denied.

In the Supreme Court of the United States, the Petitioner filed a Petition for a Writ of Certiorari in the Case of Charles A. Dread v. Maryland State Police that was filed on January 11, 1996 and placed on the Docket January 25th, 1996 as No. 95-7631. The Form enclosed for notifying opposing Counsel, dated February 7th, 1996. The Petition for Writ of Certiorari is denied, as of March 4th, 1996. The Petition for Rehearing is denied, as of April 15, 1996.

Petitioner, Charles A. Dread, filed the Petition for Judicial Review on the 15th day of May 1996, in the Circuit Court for Baltimore County, Third Judicial Circuit for Maryland, in the Appeal from the Administrative Hearing Board pursuant to Maryland Rule 7-207; after receiving notice to file. Respondent files Motion to Dismiss the Petitioner's Motion for Judicial Review on June 19, 1996, in that, Petitioner files a Motion in Opposition to Respondent's Motion to strike Petitions on the 25th day of June. **The Court Denied Respondent's Motion on the 22nd day of July, 1996.**

Petitioner files his Memorandum, as the Court requested, on the 2nd day of August, 1996. The Memorandum pursuant to Maryland Rule 7-207, list the Exhibits in the Petitioner's Memorandum, that are references to the Petitioner's Record Extract (Separate Volume) containing the Official Documents and Reports of the Maryland State Police Administrative Trial Board Hearing.

In March 1997, The Petitioner receives Notice to file a Motion for Summary Judgment pursuant to Maryland Rule 2-501.1 and 2 of the Maryland Rules of Procedure by the Permission of the Circuit Court.

In April 1997, on the 10th day, Petitioner files the Motion for Summary Judgment, & Request for Hearing under Case No. 03-C-96-004893 in the Circuit Court for Baltimore County in a Timely Manner pursuant to the Maryland Rules of Procedure, that Appeals a Final Decision and Order of the Superintendent of the Maryland State Police in the Agency proceeding Maryland State Police v. Charles A. Dread, IAU Case No. U-31-00037 dated April 25th, 1991

See, (Summary Judgment / App., E)

The Petitioner's Motion for Summary Judgment and Request for a Hearing has been **Vacated** on the 2nd day of July, and the 4th and 5th day of August 1997, that denies Petitioner's Due Process Rights under the **Law Enforcement Officer's Bill of Rights** that guarantees the Petitioner a Hearing from any Acts of Discrimination under Article 27 Section 733 of the Annotated Code of Maryland, that the Merits of his Claims are to be **HEARD**.

As the Circuit Court failed to follow the requirements of Maryland Rule 2-311(f), its decision in denying (vacating) the Petitioner's Motion without a Hearing, were not Legally Correct. Bond v. Slavin, 157 Md. App. 340 (2004); By Denying or Vacating the Petitioner's Motion for Summary Judgment and Request for Hearing lacks Due Process. The Trial Court's Decision was not legally correct.

The Civil Statute of the Illinois General Assembly Section 13-218, states "Revival of Judgment." A Petition to Revive a Judgment, as provided by Section 2-1601 of this Code, may be filed No Later than 20 years next after the Date of Entry

of such Judgment. The Provisions of this Amendatory Act of the 96th General Assembly are Declarative of existing Law. (Source: P.A. 96-305, eff. 8-11-09.) Also See, (735 ILCS 5/13-218) (from Ch. 110, par. 13-218)

In filing an Appeal on the 26th day of July, 2017 in the Circuit Court for Baltimore County, Third Judicial Circuit for Maryland and the Court of Special Appeals on the Same Day noted the sequence of dates for perfecting a Timely Appeal. Since the 20 year Statute applies to the Date of Entry of Judgment entered in the Captioned Case of July 2nd and August 5th, 1997 substantially complies with the Above Statute.

In Order to Constitute a Judgment under Maryland Law, an Order must Settle the Rights of the Parties and Conclude the Cause of Action. The Two required Acts for an Action of the Court to be deemed the granting of a Judgment are the Issuance of a Final Order and the Entry of the Order on the Docket.

There has not been a Trial on the Merits of Claims presented in the Summary Judgment or a Final Order. The 1997 Amendments to Maryland Rule 2-601 have changed the Analysis from whether Finality Exist to whether an Order, which finally resolves all the issues, has been set forth on a Separate document; **Houghton v. County Commissioners of Kent County's**, 504 A.2d 1145 (1986), the Focus on Finality is still relevant, but it is not sufficient, without the Separate document, to start the time for Filing an Appeal. **Hiob v. Progressive Am. Ins. Co.**, 440 Md. 466, 103 A.3d 596, 2014 Md. LEXIS 779 (2014).

On July 26, 2017, The Petitioner files in the Circuit Court for Baltimore County the Application for Leave to Appeal from the Malicious Allegations of the Maryland State Police Administrative Trial Board Hearing in **Maryland State Police v. Charles A. Dread**, IAU Case No. U-31-00037 dated April 25, 1991; pursuant to Md. Rule 8-204, that applies for leave to Appeal from the Judgment entered in the above Caption Case and on the same day files the Application in the Court of Special Appeals No. 01005, September Term, 2017.

On November 13th, 2017; the Maryland State Police, Respondent, files a Motion to Dismiss Appeal. Upon Consideration of the Appellee's Motion to Dismiss Appeal, and No opposition having been filed, it is this 11th, day of December 2017, the Court of Special Appeals, Ordered, that Appellee's Motion to Dismiss Appeal be, and is hereby, granted; and it is further Ordered, that the Appeal be, and is hereby, dismissed as being untimely filed. Md. Rule 8-602(a)(3).

On January 24th, 2018, The Petitioner files for a Writ of Certiorari in the Court of Appeals of Maryland, September Term, 2017, Petition Docket No. 0473 pursuant to Md. Rule 8-303 and 8-602 affirming Section 1983 of Title 42 of the United States Code respectfully Petitions the Court to Review the Lower Court Statutory Interpretation made by an Administrative Agency of the Maryland State Police.

The Entry of Judgement Not Directed under Rule 2-602 for being "untimely" in filing a claim for Intentional Racial Discrimination of Police Misconduct, detailing of the Willful Act of filing False Allegations under the Pretext of Black Inferiority (Lack of Insight, Permanent in Nature) which violates Section 1983 of

Title 42 United States Code which makes it unlawful for anyone acting under the Authority of State Law to Deprive Another Person of his or her Rights under the Constitution or Federal Law.

On January 30th, 2018, the Maryland State Police, Respondent, files an Answer to Petition for Writ of Certiorari. The Court of Appeals of Maryland, Petition Docket No. 0473, September Term, 2017, (No. 1005, Sept. Term 2017, Court of Special Appeals) and on March 23rd, 2018, the Court of Appeals ORDERED, that the Petition be, and it is hereby, denied as there has been No Showing that Review by Certiorari is desirable and in Public Interest.

On April 20th, 2018, the Petitioner files a Petition for Writ of Habeas Corpus in the United States Court for the District of Maryland, in Greenbelt, Maryland. On May 25th, 2018, Petitioner receives an Order dated April 25 that Cautioned the Petitioner to file a Supplement within twenty-one days and the Petitioner, also received on the same date a Memorandum Opinion that the failure to timely supplement the Petition, providing the required information, may result in dismissal of this Action without prejudice. In filing his Supplement on June 7th, 2018, substantially complies with the Latest date of receiving the above two (2) Notices on May 26, 2018.

On June 07, 2018, Petitioner files his Motion for Reconsideration with the Memorandum of Law in Support of Motion and the Revised Version of the Petition for Writ of Habeas Corpus in the Civil Action No. PX-18-1177, in the United States District Court for the District of Maryland, in Greenbelt, Maryland. On the 13th

day of June, 2018, by the United States District Court for the District of Maryland, hereby Ordered that the Motion for Reconsideration (ECF No. 6) is DENIED.

The Requirement that State Remedies be Exhausted before Relief is sought in the Federal Courts is Grounded primarily upon the respect which Federal Courts have for the State Judicial process, and upon the Administrative necessities of the Federal Judiciary. State Courts are duty bound to give full effect to Federal Constitutional Rights, and it cannot be assumed that they will be derelict in their duty. Only after State Remedies have been Exhausted without the Federal Claim having been vindicated may Federal Courts properly Intervene. But the reason for this Exhaustion Principle cease after the Highest State Court has rendered a decision on the Merits of the Federal Constitutional Claim.

Petitioner, by filing his Petition for Judicial Review on June 25th, 2018, substantially complied with the requirements of Rule B2e. The real purpose of Rule B2 and B4 is to require that a party aggrieved by an Administrative Decision to perfect his Appeal by no more than forty (40) days from the date of the Final Agency Decision. Rule B4a provides that the Order of Appeal is filed within thirty (30) days of the Final Decision; and if No Petition accompanies the Order for Appeal, then Rule B2e provides that the Petition be filed within Ten (10) days of the Order. Consistent with that timetable, the last possible date for perfecting Petitioner's Appeal would have been July 17, 2018.

On the 5th Day of September, 2018, I filed in the Office of the Equal Employment Opportunity Commission in Baltimore Maryland for Due Process

Violations in the Administrative Hearing involving Title VII of the Civil Rights Act of 1964 as Amended. On September 20th, 2018, the Equal Employment Opportunity Commission denied Complaint, as the ruling stating that the charge was untimely.

On December 14th, 2018, I filed in the Supreme Court of the United States a Petition for a Writ of Habeas Corpus, in which, the Court Denied the Petition for Financial Reasons, as I was unable to file in Forma Pauperis. I had to file with Booklet Format by Cockle Legal Briefs at 2311 Douglas Street, Omaha, Nebraska; Authorized by the Clerk of the Supreme Court.

On February 12th, 2019, Cockle Briefs files Certified to the Supreme Court, the Petition for An Extraordinary Writ of Habeas Corpus (Booklet Format). The Court Denied the Petition on March 18th, 2019.

On April 12th, 2019, Cockle Legal Briefs files the Petition for Rehearing, (Booklet Format) under Article III of the Constitution, invoking the Courts ORIGINAL JURISDICTION, of which, the Petitioner is entitled to a Judgement in his favor, as a Matter of Law. The Petition for Rehearing (No. 18-7063) was denied on May 13th, 2019.

On March 4, 2020, the Petitioner files Complaint in the United States District Court for the Southern Division of the District of MARYLAND, and November 24, 2020; the United States District Court Denied Due Process of Complaint and Due to File Play, Exhibit 10 has been altered, the Second Page of the Order has been Accidentally Misplaced. See, (App. D pg. 18 26)

The Informal Brief was filed in the Court of Appeals for the Fourth Circuit on January 21st, 2021 describing the Acts of Discrimination. See, (App. A pg. 5-7).

The Disclosure Statement filed in the Court of Appeals for the Fourth Circuit on the First (1) Day of March 2021. The Unpublished Per Curiam Opinion was Decided on July 1st, 2021. Petitioner's Legal Rights of Equal Protection has been Denied. See, (App. A pg. 8-10)

On July 13th, 2021. Petitioner files Petition for Rehearing pursuant to Rule 4(a)(4)(B)(ii) and Rule 41(d)(1) with Memorandum requesting a STAY of the MANDATE in accordance to the Federal Rules of Appellate Procedure and Title VII of the Civil Rights Act of 1964 as Amended, on the Grounds that there is No Genuine Dispute as to any Material FACT describing a Pattern or Practice of Discrimination against a Class of Individuals in a Petition for Rehearing, under Article III of the United States Constitution, invoking the Courts ORIGINAL JURISDICTION.

On July 18th, 2021, Petitioner receives a Temporary Stay of Mandate in accordance with Rule 41(b) pending further Order of the Court. See, (App. A, 1-4)

In **Francois v. Alberti Van & Storage Co., Inc.**, 404 A.2d 1058, 1061, the Court of Appeals, quoting its Decision in **Town of Somerset v. Board**, stated that "[W]here there is Compliance with the Substance of the requirements of Statutes or Rules and the other parties have not been prejudiced, Technical Irregularities

cannot be made the Basis for Depriving Persons of the Opportunity to Assert their Legal Rights.”


Respondent’s Motion to Dismiss Petitioner’s Complaint of Employment Discrimination, filed on the 23rd day of March, 2020, seeks to preclude the Merits of Petitioner’s Appeal simply because his Diligence caused him to file his Informal Brief for Review in a Timely Manner.

Rule B5 provides for dismissal of an Appeal if the Petition for Appeal is not Timely Filed “unless caused to the contrary is shown.” In Francois, supra, the Court stated that this Language indicates “some Elasticity is allowed if ‘Cause’ (meaning ‘Good Cause’) is shown.” Id. at 1063. Therefore, the Term “Cause” is equated to Good Cause. The Court stated:

[G]ood Cause must be Evidence by a Display of Diligence to Prosecute the Case during the Period of Alleged Inaction; and that, the Trial Court’s Discretion will not be Set Aside on Appeal Except in Extreme Cases of Clear Abuse. [CITATIONS OMITTED]. Id. at 1063-64

Accordingly, where a Petitioner has demonstrated diligence in prosecuting an Appeal, dismissal is unwarranted.

Respectfully Submitted,



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CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

(1) First Amendment to the United States Constitution

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.

(2) 14th Amendment to the United States Constitution

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 the Laws.

(3) TITLE 42 USC Section 1983- Civil Action for Deprivation of Rights of Rights

Every Person who Under Color of any Statue, Ordinance, Regulation. Custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any Citizen of the United States or other Person within the Jurisdiction thereof to the Deprivation of any Rights, Privileges, or Immunities secured by the Constitution and Laws, shall be Liable to the Party injured in an Action at Law, Suit inequity, are other proper proceeding for redress, except, that in any Action brought against a Judicial Officer for an Act or Omission taken in such Officer's Judicial capacity, injunctive relief shall not be Granted unless Declaratory Decree was violated or Declaratory Relief was unavailable.

(4) ANNOTATED CODE OF MARYLAND; Article 27 section 733

A Law Enforcement Officer may not be discharge, disciplined, demoted or denied promotion, transfer, or reassignment, or otherwise discriminated against in regard to his Employment or be threaten with any such treatment, by reason of his Exercise of or Demand for the Rights Granted in this subtitle, or by reason of the Lawful Exercise of his Constitutional Rights.

(5) ANNOTATED CODE OF MARYLAND, Public Safety; Title 3;

Law Enforcement Subtitle 1- Law Enforcement Officer's Bill of Rights, section 3-113. False Statement, Report, or Complaint. Prohibited- A Person may not knowingly make a False Statement, report, or complaint during an Investigation or Proceeding conducted under this subtitle.

STATEMENT OF THE CASE

1. The Petitioner Appeals the Final Decision and Order of the Superintendent of the Maryland State Police in the Agency proceeding, Maryland State Police v. Charles A. Dread IAU Case No.: U-31-00037 dated April 25, 1991.
2. The Decision and Order of the Superintendent of the Maryland State Police affirms a Recommended Decision of the Maryland State Police Administrative Trial Board Hearing. The Trial Board found Petitioner guilty of various Disciplinary Rules in violations of Chapter 5 of the Administrative Manual. The Penalty imposed for the allege Violations is Dismissal from Employment.
3. The Decision of the Superintendent is Arbitrary and Capricious because it is not supported by Substantial Evidence on the Record. The Material Factual Matters were Intentionally Overlooked, Denying Discretionary Review.
4. The Hearing before the Administrative Trial Board was conducted in Violation of Petitioner's Due Process Rights, in that, the Trial Court's Decision is in Conflict with the Lower Court's Previous Ruling.
5. The Decision of the Superintendent of the Maryland State Police substantially prejudices Petitioner as provided in the Declaratory Decree of the Informal Brief to be assigned at the Hearing on this Appeal

REASONS FOR GRANTING THE PETITION

This Case involves the Review of the Maryland State Police Administrative Agency's Trial Board Hearing that ignored Due Process Rights with Impunity, Right's afforded by the Constitution and Civil Rights Laws that Governs our Nation, and in Planting the reported Stolen Weapon in the Police Unit, Overlooking these Rights of the Fourteenth Amendment of Equal Protection and State Law of Falsifying the Charging Documents are Prohibited.

For Reasons Set forth Above, Petitioner, Charles A. Dread, asks this Court to Grant its Petition seeking an Extraordinary Writ that will be in Aid of the Court's Appellate Jurisdiction in Order to Answer the Questions raised herein, and Protect Petitioner's Rights vis-à-vis a Flawed Legislative Enactment and an Overzealous and Unwarranted Enforcement Action by the Administrative Agency of the Maryland State Police.

UNLAWFUL DISCRIMINATION IN EMPLOYMENT DISPUTE

1.) What Rights you feel have been violated?

A.) The Law Enforcement Officer's Bill of Rights under Article 27 Section

733 of the Annotated Code of Maryland that states:

"A Law Enforcement Officer may not be discharged, disciplined, demoted, or denied promotion, transfer, or reassignment, or otherwise discriminated against in regard to his Employment or be Threatened with any such Treatment, by Reason of his Exercise of or Demand for the Rights granted in this Subtitle, or by Reason of the Lawful Exercise of his Constitutional Rights."

¹The Time-Line was ignored in the Trial Board Hearing, a Direct Violation of Petitioner's Constitutional (Due Process) Rights. See, (App. E, 001-060)

In the Administrative Hearing, the Time-Line (Radio Logs) was entered as Joint Exhibit in the Accident Investigation. The Time-Line was ignored Intentionally, in the Administrative Hearing, that would have verified the Inconsistency, SNUGGED- a- way, in the charging document. The Root of the Inconsistency is found in the Malicious Act of Falsifying the Charging Document dated 11/1/88 at 0946 hours that states: **"Complainant reported that upon being seated she pointed out to the Trooper (Dread) that a Gun was located between the Patrol vehicle's seat and door frame."** See, (E.36)

¹ Compare (See, Transcript of Administrative Hearing) Record Extract, (Table of Contents E-1 and E-56) and. See, Summary Judgment-Exhibits w/ Memorandum (001- 060).page No. Bottom Right Corner.

According to the Time-Line, Mrs. Dwyer asked to have a seat in the MSP Unit Q-28 at approximately 0725 hours, due to the fact that Trooper Sroka had just arrived on the scene at 0724 hours. At this time, Mrs. Dwyer helped pick up papers off the front seat before entering the vehicle. There was No Mention of a gun being found or Seen.

The Inconsistency in the complaint **ABOVE**, is that, the weapon was not discovered until Petitioner was making the transfer of Mrs. Dwyer from MSP Unit Q-28 to MSP Unit Q-36 at approximately 20 to 25 minutes after she (Dwyer) was initially in the MSP Unit (Q-28).

FACTS TO SUPPORT THIS CONTENTION THE TIME-LINE

After the removal of Mrs. Dwyer's vehicle from the roadway, I opened all lanes of traffic pulling over to the left shoulder in front of Trooper Sroka (Q-25) at approximately 0745 hours. I advised Mrs. Dwyer to remain in the MSP Unit Q-28 until contact was made with an Investigator. I exited the MSP Unit at that time and approached Trooper Sroka's Unit (second vehicle) to inquire about the Investigation of Mrs. Dwyer's vehicle. Trooper Sroka advised that Trooper Paolucci was investigating Mrs. Dwyer's vehicle. See, (Record Extract pg. 24))

As I began to approach Trooper Paolucci's Unit (Third Vehicle), I instinctively looked back and noticed Mrs. Dwyer moving around in the MSP Unit Q-28, but continued on. I approached Trooper Paolucci's Unit and inquired, where do you want Mrs. Dwyer to sit? He responded, "Put her in the back seat." I went back to

my MSP Unit Q-28 on the passenger's side, considering her Age and to ensure her safety back to Trooper Paolucci's Unit Q-36, since the Beltway's rush hour traffic was in progress on the passenger's side.

Upon opening the door, a Gun fell unto the door frame. I immediately picked up the weapon and asked Mrs. Dwyer, "Who does this belongs to?" Mrs. Dwyer responded, "It's not mine, I never saw that Gun, I am afraid of Guns." I stated, "It's not mine." Mrs. Dwyer again denied having any knowledge of ever seeing the weapon. I recovered (taking away) the Gun to the area in back of the MSP Unit Q-28 (FRONT OF Q-25) near median wall to clear found weapon (No Magazine, No Ammunition). At which time, I motioned for Trooper Paolucci to contact me, we met at the rear of Trooper Sroka's Unit (Q-25) in front of Q-36 near the median wall. I advised him of incident that had just occurred, turning over the weapon. See, (Record Extract pg. 24)

Trooper Paolucci took the weapon back up to MSP Unit Q-28 as I accompanied him, entering my Unit on the driver's side, as Trooper Paolucci approached Mrs. Dwyer from the passenger side, immediately telling her to put this (Gun) back in her bag. I, Petitioner, stated, "I wouldn't want to do the paper work either." Thinking that he (Paolucci) was attempting to get Mrs. Dwyer to own up to the Gun. Again, Mrs. Dwyer refused to acknowledge ownership of the Gun. See, (Record Extract pg. 34)

Trooper Paolucci went to consult with Trooper Sroka in reference to the incident, as I remained in the MSP Unit Q-28 with Mrs. Dwyer, as requested by

Trooper Paolucci. See, (Record Extract pg. 34). After a few minutes had passed, I exited to join the discussion to hear what was being said. On my arrival, to area of the discussion, everything appeared to be over and they decided to put the weapon on property held. (See, Record Ext. pg.32) I advised them that there should be an Arrest. Trooper Paolucci said that he wanted to check her vehicle for a Magazine & Ammunition.

I requested for the weapon, to notify the Barrack of found property to have the PCO enter the weapon's serial number into the Computer's (NCIC). I used Trooper Sroka's Unit, since the other two (2) were occupied (Trooper Sroka's Unit was vacant) calling in the found weapon at 0803 hours. Again, turning over the weapon to (Trooper Paolucci) the Investigator. See, (Record Extract pg. 26)

All Troopers observed the weapon at this time. Trooper Sroka stated; "I was approached by Troopers Dread and Paolucci who were investigating a second accident at the same location." Trooper Sroka also stated, "At this point, Mrs. Dwyer became visibly upset stating, 'that is not my Gun.'" See, (Record Ext. pg. 27)

This Expression identifies the weapon being in the presence of all three (3) Troopers on the scene while (she) Mrs. Dwyer was sitting inside MSP Unit Q-28. It also identifies the fact that the weapon was not left in the MSP Unit Q-28 at any time.

The Petitioner, will identify an inconsistency here; that is revealed in both Troopers found property reports, **compare** (E.27) and (E.34 to E.35) in their entirety. Trooper Paolucci stated; "Mrs. Dwyer, who was sitting in MSP Unit Q-28

unattended, came back to where we were and became argumentative. I instructed Mrs. Dwyer to take a seat in my vehicle. TFC Dread was persistent that I take the Gun to the Barrack. At this time I agreed to take the Gun and secured it in the trunk of MSP Unit Q-36. See, (Record Extract pg. 34)

Trooper Sroka stated, "At this point Mrs. Dwyer became visibly upset stating 'that is not my Gun'." Trooper Dread then asked Mrs. Dwyer to go back to his car, Mrs. Dwyer refused. I then requested Mrs. Dwyer to return to Trooper Dread's vehicle, Mrs. Dwyer reluctantly did. I then continued investigating the accident that was assigned to me. See, (Record Extract pg. 27)

The Fabrication here is inaccurate, due to the fact, that Mrs. Dwyer remained in MSP Unit Q-28 and did not exit and approach Troopers at any time.

Again, after agreeing with the Investigator and calling the found property into the Barrack (turning over the weapon), the Investigator (Trooper Paolucci) returned to MSP unit Q-28 to take Mrs. Dwyer back to (his) MSP Unit Q-36. Calling her license number into the Barrack at 0807 hours. See, (Record Ext.pg. 26)

I, Petitioner was later advised by Trooper Sroka that I should do an incident report. The Petitioner returned to MSP Unit Q-28 to write down a report of the incident, leaving the scene at approximately 0815 hours, notifying the College Park Barrack of changing to Forestville's channel 4 at 0826 hours. See, (Record Ext. 26)

CONCLUSIVE EVIDENCE

Mrs. Dwyer initially reported, "And then he told me that he wanted me to go in the back, another Officer came up and said I need to get a statement of the people involved in the Accident, go back to the other car. So he came around and I got ready to get out, and there was a Gun between the seat and doorway." See, (Record Extract pg. 38)

Mrs. Dwyer later reported in the same report that; "I said, I refuse to touch the Gun, you get someone here to fingerprint it, I will not touch the Gun. So he got out of the car and went in the back". The Inconsistency was obviously overlooked, Intentionally, due to the fact that, I could not have been in two places at the same time, as indicated in Mrs. Dwyer's Interview with Sgt. Chipley. See, (Record Extract pg. 38)

Mrs. Dwyer was again questioned by Sgt. Chipley, "And at first you noticed it on the passenger side of the vehicle closer to the door between the seat and the door?" Mrs. Dwyer reported, "When I got ready to get out. I did not see it when I entered the vehicle." See, (Record Extract pg. 38)

What made Mrs. Dwyer look down, if I opened the door for her, to go in the back to Trooper Paolucci's Unit? Was there a noise of something falling, and if so, how did it get there, if she helped pick-up papers off the front seat before entering the vehicle?

Trooper Paolucci reported on 11/14/88, when interviewed by Sgt. McKeon; Sgt. McKeon asked, "Where did you first see the Nine (9) Millimeter and who had

possession of it? Trooper Paolucci reported, "After TFC Dread motioned me up, I went up there and he showed me a Gun in his hand." See, (Record Extract pg. 40). The statement by Trooper Paolucci corroborates Petitioner's account noted in his detailed report, dated 11/11/88; when stated, "I recovered the Gun from the vehicle and went over to Trooper Paolucci to advise him of the incident and handed over the Gun, since he was conducting the accident Investigation." See, (Record Extract pg. 24)

Trooper Paolucci's statement is inconsistent with Mrs. Dwyer's Initial report that stated, "Another officer came up and said go back to the other car." The fact is, Trooper Paolucci came up after the weapon was given to him and not before, as reported by Mrs. Dwyer. See, (Record Extract pg. 38)

Sgt. McKeon's next question to Trooper Paolucci stated, "In your report you told Trooper Dread to stay with Mrs. Dwyer and you went over to Trooper Stroka. Where was Mrs. Dwyer at that time? Trooper Paolucci reported, "In the right front passenger seat of Q-28." Trooper Paolucci reported in his found property report, dated 11/2//88, that, "I asked Mrs. Dwyer if it was her Gun. She said, No, I don't believe in Guns, I've never seen it before in my life. I told TFC Dread to stay with Mrs. Dwyer while I went and inform Trooper Sroka of the situation."(Record Extract. pg.34)

Again, the Question asked by Sgt. McKeon places Trooper Paolucci on the passenger's side at approximately 0755 hours, according to the time line, which corroborates Petitioner's account noted in his detailed report that stated, "Trooper

Paolucci then went over to Mrs. Dwyer and told her to put this (Gun) back in her bag. I stated, I wouldn't want to do the paperwork either thinking that Trooper Paolucci was trying to get Mrs. Dwyer to own up to the Gun. Again, Mrs. Dwyer refused to acknowledge ownership of the Gun and did not take possession of it." See, (Record Extract pg. 34))

Sgt. McKeon's next question stated, "And where was the Nine (9) Millimeter?" Trooper Paolucci reported, "I believe it was still in TFC Dread's hand when I left him." Trooper Paolucci was asked the same question when the three (3) Troopers were together, after the initial recovery; Sgt. McKeon asked, "Where was the Nine (9) Millimeter at that time?" Trooper Paolucci reported, "It was not in TFC Dread's hand, I wasn't sure where it was. I assumed he had secured it." See, (Record Extract pg. 40)

The Fact is, being that Trooper Paolucci was uncertain of the whereabouts of the weapon, his expression verifies the act of concealment, that the weapon was in his possession, in that, there was no time for anything else. Trooper Paolucci later reported to Sgt. McKeon that, after the three (3) Troopers had gathered, "just a few minutes later Mrs. Dwyer came back. I didn't see her exit the vehicle, but she did come back." Sgt. McKeon questioned him, "Where was the Nine (9) millimeter when this took place? Trooper Paolucci reported, "I don't know." See, (Record Extract pg. 41))

The Fact is, Mrs. Dwyer never did exit the Police Unit (Q-28), gives reason for Trooper Paolucci not seeing her exit. The time for Mrs. Dwyer to exit and come

back to where we had gathered is completely Inaccurate and False, Intentionally. Trooper Paolucci reported, "just a few minutes." Trooper Sroka reported, ("with in ten-fifteen seconds.") The Inconsistency was deliberately overlooked. See, (Record Extract pg. 46) Trooper Sroka reported in his found property report that, "At this point Mrs. Dwyer became visibly upset stating, 'that is not my Gun.'" See, (Record Extract. Pg. 27). The fact is, Mrs. Dwyer was sitting in the MSP Unit Q-28 at that time. Trooper Sroka reported in the interview with Sgt. McKeon that, "She said that this was not her Gun, just after we had gathered, we had just gathered," Trooper Paolucci came back to my car asked me to get out, we stood at the front door of my car, then Charlie Dread came back. "He started giving his side and then right within ten- fifteen seconds behind Trooper Dread came Mrs. Dwyer, stating that this is not my Gun." See, (Record Extract pg. 46)

Trooper Sroka later reported on 11/15/88, when interviewed by Sgt. McKeon that, "I never saw the Nine (9) Millimeter on the scene. The only time I saw it was back at the barrack." The fact is, the Expression, "that this is not my Gun" after we had gathered indicates that he did see the Weapon. See, (Record Extract pg. 46)

IN CONCLUSION, Mrs. Dwyer reported to Sgt. Chipley in his interview on 11/1/88, when she was asked, "Ma'am, while he was talking to the other two (2) Troopers, where was the Gun at?" Mrs. Dwyer reported; "It was in the car and I was sitting half way on I was half sitting on the Gun." Sgt. Chipley replied, "You

were still sitting or half sitting on the Gun." Mrs. Dwyer answered, "YES"! See, (Record Extract pg. 39).

Trooper Paolucci reported, when asked by Sgt. McKeon, When was the next time you saw the Nine (9) Millimeter? He stated, "After I agreed to secure it in my vehicle and take it back to the barrack, I agreed to do that and do a Property Held. TFC Dread had brought it back to my vehicle, and I secured it in my trunk."(Record Extract pg.41.)

Trooper Paolucci overlooked the fact that, if that had occurred, there would have been No Notification of the weapon being on the scene at 0803 hours, According to the Time-Line. See, (Record Extract pg. 26). In fact, it would have been locked in his trunk or being partially sat on by Mrs. Dwyer. The fact being, that I requested for the weapon from Trooper Paolucci and used Trooper Sroka's MSP Unit Q-25 to notify the Barrack, since the other two (2) Units were occupied and being precise to Established Rules, notifying the Barrack and placing the Weapon's Serial Number in the National Crime Information Computer. See, (Record Extract pg. 26)

ARGUMENT

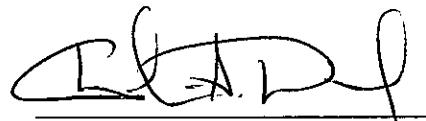
Standard of Review

Maryland Rule 8-131 (c) provides that when an Action has been tried without a Jury, the Appellate Court will review the Case on both the Law and the Evidence. The Trial Court's decision must be reversed if it was not legally correct. **Heat & Power Corp. v. Air Products & Chemicals, Inc.**, 320 Md. 584, 591 (1990).

The Standard for Appellate Review does not apply to determinations of legal questions or Conclusions of the Law, as in this Case there were No Hearings or Factual findings. **Maryland Rule 2-311 (f)** provides that the Circuit Court may not render a decision that is dispositive of a claim or defense without a hearing if one is requested.

Bond v. Slavin, 157 Md. App. 340 (2004). By Denying or Vacating the Petitioner's Motion for Summary Judgment and Request for Hearing lacks Due Process. The Trial Court's decision was not legally correct.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Charles A. Dread', written over a horizontal line.

Charles A. Dread

Statement as to Typeface: The font used in this Brief is Century School and the type size is 12 point.

TEXT OF CITED STATUTES & RULES

(1) Annotated Code of Maryland, Article 27 section 733;

A Law Enforcement Officer may not be discharged, disciplined, demoted, or denied promotion, transfer, or reassignment, or otherwise discriminated against in regard to his Employment or be Threaten with any such treatment, by reason of his Exercise of or Demand for the rights granted in this subtitle, or by reason of the Lawful Exercise his Constitutional Rights.

(2) Annotated Code of Maryland, Public Safety; Title 3

Law Enforcement Subtitle 1 – Law Enforcement Officers’ Bill of Rights
Section 3-113 – False statement, report, or complaint. Prohibited – A person may not knowingly make a false statement, report, or complaint during an investigation or proceeding conducted under this subtitle.

(3) Maryland Rule 2-311(f)

A party desiring a hearing on a motion, other than a motion filed pursuant to Rule 2-532, 2-533, or 2-534, shall request a hearing in the motion or response under the heading “Request for Hearing.” Except when the Rule expressly provides for a hearing, the court shall determine each case whether a hearing will be held, but the court may not render a decision that is dispositive of a claim or defense without a hearing if one was requested as provided in this section.

“Request for a Hearing” in accordance to Maryland Rule 2-501.1 & 2.

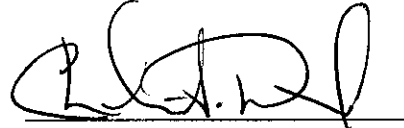
(4) TITLE 42 USC Section 1983- Civil Action for Deprivation of Rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and Laws, shall be liable to the party injured in an action at Law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer’s Judicial capacity, injunctive relief shall not be granted unless declaratory decree was violated or declaratory relief was unavailable.

CERTIFICATION OF WORD COUNT AND COMPLIANCE

WITH RULE 8-112

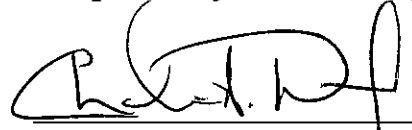
1. This brief contains 4,322 words, excluding the parts of the brief exempted from the word count by Rule 8-503.
2. This brief complies with the font, spacing, and type size requirements stated in Rule 8-112.


Charles A. Dread

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of August, 2021, the Petitioner, served the Enclosed One (Petition for a Writ of Certiorari for Review; Record Extract and Summary Judgment with Memorandum), were mailed First Class, Postage pre-paid to: Mr. Mark H. Bowen, Office of the Attorney General of Maryland, Department of the State Police, 1201 Reisterstown Road, Pikesville, Maryland 21208.

Respectfully Submitted,

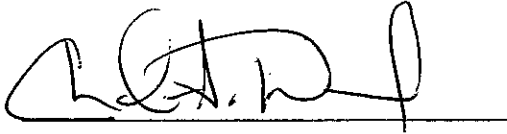


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CONCLUSION

The Petition for an Extraordinary Writ should be granted.

Respectfully Submitted,



Date: August 16th, 2021

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

CHARLES A. DREAD PETITIONER

VS.

MARYLAND STATE POLICE -- RESPONDENT(S)

PROOF OF SERVICE