

21-5445  
No.

# ORIGINAL

**In the Supreme Court of the United States**

Henryk S. Borecki, Petitioner

Supreme Court, U.S.  
FILED

JUL 30 2021

OFFICE OF THE CLERK

V.

United States Department of Homeland Security  
&  
Arizona Department of Transportation

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

## Petition for Writ of Certiorari

Henryk S. Borecki  
*Pro Se*

Susan DiFrancesco  
*Wife, Representative & Witness*

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## QUESTIONS PRESENTED

**Does the plaintiff's complaint, based on Sections 1983, 1985 and 1986 of the Civil Rights Acts, state a claim for relief against both or either of the defendants?**

**Can a joint federal-state program for travel identification of airline passengers completely disembowel and eviscerate the requirements of *Goldberg v. Kelly*?**

**Does the Constitution require that a citizen incriminate himself by falsely, fictitiously and fraudulently presenting written materials to get a REAL Travel Identification Card?**

**Can the State of Arizona require a citizen to commit a federal crime *prior* to boarding an aircraft, just to get a safe flight as a passenger?**

&

**Whether the plaintiff presented *sufficient* documentary evidence to permit him to enjoy his constitutional right and his constitutional privilege to fly within the United States to see his family in Omaha, Nebraska.**

## TABLE OF CONTENTS

Questions Presented .....	1
Opinions Below .....	6
Jurisdiction .....	7
Statutory Provisions Involved.....	7
Statement .....	7
Reasons for Granting the Petition.....	8
Conclusion .....	9
Supplemental Petition .....	12
Index to Appendix .....	16

### Table of Authorities

*What is it that hath been?  
the same thing that shall be.  
What is it that hath been done?  
the same that shall be done.*

### *Ecclesiastes 1:9*

**THE CASE OF JAMES SOMMERSETT**  
20 Howell's State Trials 1-82, 1369-1386,  
Twelfth Reign of King George the Third, A.D. 1771-1772,  
Court of King's Bench, Lord Chief Justice: Earl of Mansfield.

*Marbury v. Madison*, 5 U.S. (1 William Cranch) 137 (1803)

*Crandall v. Nevada*, 75 U.S. (6 John Wallace) 35 (1867)

*Ex parte Yerger*, 75 U.S. (8 John Wallace) 85 (1868)

*Nishimura Ekiu v. United States*, 142 U.S. 651 (1892)

*Yamataya v. Fisher*, 189 U.S. 86 (1903)

*Edwards v. California*, 314 U.S. 160 (1941)

*Hirabayashi v. United States*, 320 U.S. 81 (1943)

*Goldberg v. Kelly*, 397 U.S. 254 (1970)

*Nat'l Socialist Party of America v. Skokie*, 432 U.S. 43 (1977)

*Saenz v. Roe*, 526 U.S. 489 (1999)

*Wilson v. Alexander*, 4 Ill. (3 Jonathan Scammon) 392 (1842)  
(Justice Treat)(A. Lincoln)

*United States ex rel. Fahner v. Dr. Alaska*, 591 F.Supp. 794 (1983)  
(No. 82 C 1381)(N.D. Ill. Judge Decker)

#### Statutes & Rules

Real ID Act of 2005  
Public Law 109-13 — May 11, 2005, 119 Stat. 311-316

8 U.S.C. 1431	42 U.S.C. 1981(a),(b)
	42 U.S.C. 1983
28 U.S.C. 1331	42 U.S.C. 1985(1),(2),(3)
28 U.S.C. 1343	42 U.S.C. 1986
28 U.S.C. 1346	42 U.S.C. 2000(a)
28 U.S.C. 1651	
28 U.S.C. 2241	F.R.C.P. Rule 9(a)-(g)
28 U.S.C. 2242	F.R.E. Rules 901 & 902

31 U.S.C. 3729  
Revised Statutes § 3490 (1874)  
Revised Statutes § 5438 (1874) (repealed by  
Act of March 4, 1909, ch. 321, § 341, 35 Stat. 1153)

The Lincoln Law  
Thirty-Seventh Congress, Chapter 67, March 2, 1863

Refugee Relief Act of 1953, Public Law 203, Chapter 336, 67 Stat.  
400 (August 7, 1953)

## Regulations, Forms & Policy

ADOT Form 40-5114 R09/19  
ADOT Form 48-7803 R09/16

USCIS Form N-600

U.S. DHS website (last published date September 6, 2019)

U.S. State Department Form FS-545  
U.S. State Department Form DS-2029 04-2016  
U.S. State Department Form DS-2029 05-2017

## Legal Periodicals & Books

*Dead Men Telling Tales: A Policy-Based Proposal for Survivability of Qui Tam Actions under the Civil False Claims Act*, 83 Nebraska Law Rev. Issue 4, Article 3, 1073-1115, Vickie J. Williams (2004).

<https://digitalcommons.unl.edu/nlr/vol83/iss4/3>

*The Habeas Corpus Act of 1867: The Supreme Court as Legal Historian*, 33 U. Chi. L. Rev. 31-59, Lewis Mayers (1965).

<https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=3451&context=uclrev#:~:text=The%20Habeas%20Corpus%20Act%20of%201867%3A%20The%20Supreme,as%20a%20procedure%20for%20vacating%20state%20criminal%20convictions.>

*Mandamus against a Governor*, 3 Mich. L. Rev. 631-645, Edward J. Myers (1905).

[https://www.jstor.org/stable/1273996?seq=1#metadata\\_info\\_tab\\_contents](https://www.jstor.org/stable/1273996?seq=1#metadata_info_tab_contents)

&

*Making Your Case: The Art of Persuading Judges*, Antonin Scalia & Bryan A. Garner, Thomson/West (2008) ISBN 978-0-31418741-9.

Uniform Resource Locators

*For All the Members of the Federal Judiciary*

Italian National Anthem

<https://youtu.be/8hNfB-unpd0?list=RD8hNfB-unpd0>

Radetzky March

<https://youtu.be/pYYTdtRrg8M>

Ode to Joy

<https://youtu.be/E9dLGDCdg3g?list=RD8hNfB-unpd0>

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*v.*

United States Department of Homeland Security  
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## **Petition for Writ of Certiorari**

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The petitioner, Henryk S. Borecki, respectfully presents a petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit.

## **Opinions Below**

The orders of the court of appeals for the Ninth Circuit and the district court of Arizona are not published but are set forth in the appendix. There are no written or published

decisions by the underlying administrative federal and state agencies.

### Jurisdiction

The plaintiff's complaint was dismissed by the District Court on March 22, 2021. The appellant's appeal was dismissed by the Ninth Circuit on April 14, 2021. The petitioner's request for a review of these decisions was promptly filed within the time for relief and within the jurisdiction provided by 28 U.S.C. 1254(1).

### Statutory Provisions Involved

Reprints of the Real ID Act of 2005 and the original False Claims Act, are included in the appendix.

## STATEMENT

*Better to understand little,  
than to misunderstand a lot.*

*'a' fortune cookie*

For no good reason and for a very bad reason, the petitioner was denied his Real Travel ID.

Even though the nice people at Window No. 9 did the wrong thing on January 16, 2020 — because they were most certainly confused — everyone can understand that the right thing to do was to correct the mistake that was made.

Instead of making the mistake in the first place, like the Motor Vehicle Division made, the Executive Hearing Office

of ADOT and the Legal Counsel's Office of DHS should have corrected that mistake.

When it was brought to their attention, the individuals in the federal judiciary, at the District Court of Arizona and the Ninth Circuit Court of Appeals, should also have corrected the mistake.

This is the true value and one of the great benefits of the concepts of *due process* and *equal protection*. Everyone gets an equal opportunity to correct the mistakes of the 'other' people, in order that all of us have a much better government by *doing* things the correct way.

## REASONS FOR GRANTING PETITION

The Free Encyclopedia, Wikipedia, explains that Justice Samuel Freeman Miller, in 1850, "moved to Keokuk, Iowa, which was a state more amenable to his views on slavery, and he immediately freed his few slaves who had come with his family from Kentucky. Active in Iowa politics, he supported Abraham Lincoln in the 1860 election. Lincoln nominated Miller to the Supreme Court on July 16, 1862, after the beginning of the American Civil War. *His reputation was so high* that Miller was confirmed half an hour after the Senate received notice of his nomination."

After a bloody Civil War, Justice Miller set forth the *best* statement of the bedrock principle that is involved in this case:

We are all citizens of the United States, and as members of the same community must have the right to pass through every part of it without interruption, as freely as in our own States.

*Crandall v. Nevada*, 73 U.S. 35, 49 (December, 1867).

The year following that statement, the Fourteenth Amendment of the Constitution was ratified. Nothing is more important for each citizen to have than the basic respect for the rights of other citizens.

The evidence and the arguments on the petitioner's behalf are put forth in the complaint, in the opening memorandum with the complaint, and in the supporting brief to the Ninth Circuit. That evidence and those arguments have been reduced to an electronic version which accompanies the mere words of this paper petition. Susan and Henryk know the difference between what is right and what is wrong. We are sure that everyone else knows what should be ***done***.

## CONCLUSION

*All things therefore  
whatsoever you would  
that men should do to you,  
do you also to them.*

*For this is the law and the prophets.*

***St. Matthew 7:12***

On pages 37 and 38 of their book, *Making Your Case: The Art of Persuading Judges*, the very distinguished Justice Antonin Scalia and co-author Bryan Garner, provide the following advice:

Close powerfully — and ***say*** explicitly what you think the court should do.

***Say*** something forceful and vivid to sum up your points.

Lamentably, because this is almost entirely a documents case, which involves errors by governmental agencies, Susan and Henryk have run out of ‘good words’ which they can attribute to this unfortunate situation. Talk is so cheap, don’t you agree?

Instead — because it’s a documents case and particularly because it proceeds *in forma pauperis* — we will simply finish with an otherwise unremarkable reference, at the end of the appendix, to two more ‘government’ documents, and, as that timeworn ***saying*** goes, let those documents ***speak for themselves***.

*To everyone who is born or naturalized in America:*

Respectfully submitted,



Henryk S. Borecki  
Pro Se Plaintiff

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Texas 02657500, 11-6-78



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