DOCKET NO. 21-5652

ORIGINAL

IN THE UNITED STATES SUPREME COURT

Carlos Velasquez

v.

State of Utah by & through the Utah Legislature incl. the Utah Office of Legislative Research and General Counsel, and also incl. the Utah Department of Human Services, Utah Division of Aging and Adult Services/APS, incl. other UDHS Agencies

On Petition for Writ of Certiorari

PETITION FOR WRIT OF CERTIORARI

Carlos Velasquez, Pro Se Appellant

Civil Bureaucratic Federalist

PO Box 58486

Salt Lake City, UT 84158

QUESTIONS FOR REVIEW

1. In Limited Government terms, when are effective limitations so tangible as to define *Fraud on the Court* and *Criminal Contempt* in terms of judicial misrepresentation of Independent Citizens' Civil petitions against Unconstitutional State laws?

2. Abuse of Procedures: Are written opinions, final judgments, by any Federal Judge *fraudulent* in declaration just in terms of *read and review,* when apparently designed to affirm and protect, to covert, a deliberative misrepresentation, to successively maintain fraudulent disposition against any kind of party? (Is it not a fraudulent declaration, when based upon a previous and similar fraud?)

3. IFP Screening, Whether effective case screening was *irrequisite*: should not District Courts and Courts of Appeals take decent and reasonable care to maintain the validity, realism, and legality of any original filing by any party proceeding *in forma pauperis*, and neither have misrepresented nor abridged essential, recognizable, and consensual substance of the filing?

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DOCUMENT PREPARATION

This Opening Complaint is self-prepared under U.S. Supr. Ct. R. 33.2, is printed on high-quality paper in Century Schoolbook font, Double-Point Space.

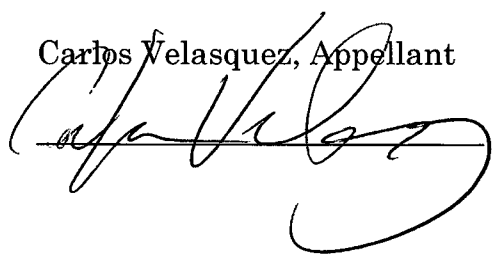
Observing U.S. Supr. Ct. R. 33.2, direct quotations from original Plaintiff pleadings are not indented, only those quotations containing any judicial opinion are indented.

The document complies with the Word Limit prescribed under U.S. Supr. Ct. R. 33.1(g), excluding prefatory material, is under 9000 words including Footnotes.

AFFIDAVIT UNDER OATH

I declare under penalty of perjury (28 U.S.C. § 1746) that the claims and materials presented within this Petition for Writ of Certiorari, as all documents and motions related, are true and correct. Executed on .

Carlos Velasquez, Appellant



LIST OF PARTIES TO THE PETITION

U.S. Court of Appeals received a 'Notice of Non-Participation' (filed 9/28/20) referring to the following original parties:[1]

STATE OF UTAH

1. Gary R. Herbert (Fmr. Gov.);
2. Sean Reyes (Atty. Gnrl.);

UTAH DEPARTMENT OF HUMAN SERVICES

3. Utah Division of Aging and Adult Services; Nels Holmgren (Div. Dir. DAAS);
4. J. Stephen Mikita (Asst. Atty. Gnrl. APS); Hon. Ms. Sonia Sweeney (Div. Dir. Of. Admin.Hrngs.);
5. Ms. Laura Thompson, CWLS (Asst. Atty. Gnrl. UDHS);
6. Ms. Amanda Slater (Div. Dir. Office of Lic.).

Utah Asst. Solicitor General, Erin Middleton filed said notice, with forwarding to the Utah Office of Legislative Research and General Counsel, Mr. Thomas R. Vaughn.

Therefore, this Petition for *Writ of Certiorari* is addressed to the Utah Asst. Solicitor General who may receive and distribute any relevant issues to the above parties.

[1] COA Docket #10774223, Case No. 20-4087.

PARTIES FOR STATE OF UTAH

Ms. Erin Middleton

Assistant Solicitor General

Utah Attorney General's Office

P.O Box 140858

Salt Lake City, UT 84114

PARTIES IN UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT[2]

Hon. Judge, Mr. Bobby Baldock

Hon. Judge, Ms. Allison Eid

Hon. Judge, Ms. Meghan Moritz

PARTIES IN UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH

Hon. Snr. Judge, Mr. Dale A. Kimball

Hon. Judge, Mr. David Nuffer

[2] Judges are all served in Professional Capacity upon their chambers.

U.S. Supr. Ct. R. 14 (b)(iii): No proceeding in the State of Utah openly evaluated the constitutionality of the Ut. Code § 62A-3-301, *et seq.* as may be defined 42 U.S.C. § 3000, *et seq.*, The Older Americans Act amended after 1992 under the Federal Jurisdiction (28 U.S.C. § 1331) and Civil Rights Act jurisdiction (28 U.S.C. § 1343), nor has any lower court opinion directly allowed a complex argument to develop.

United States Courts are apparently prejudiced to reject partial and unfaithful judicial opinions when the expression of the opinion cannot outweigh decent and reasonable objections by the party aggrieved. This matter primarily addresses how to overcome a criminally disposed judicial adversary when expressed beyond the merit of authority and *judicial privilege.*

United States Supreme Court

1. 19-6263 – Carlos Velasquez, Applicant v. State of Utah, et al.
   (Cert. Denied/Rehearing 3/21/20)

United States Court of Appeals for the Tenth Circuit

2. *Velasquez v. State of Utah by & through Utah Leg., Utah DAAS/APS, UDHS Agencies*, Case No. 20-4087 (Init. Term.4/26/21)
3. *Velasquez v. State of Utah, et al.*, Case No. 19-4041 (Init. Term.: 6/11/19)

United States District Court for the District of Utah

4. *Velasquez v. State of Utah by & through Utah leg. Incl Utah OLRGC, Utah DAAS/APS, UDHS Agencies,* Case No. 2:20-cv-00205-DAK
5. *Velasquez v. State of Utah, et al.*, Case No. 2:18-cv-00728-DN (Init. Term. 2/25/19)

FEDERAL RULE OF CIVIL PROCEDURE 60(d)(3) – *FRAUD ON THE COURT*

Other Powers to Grant Relief. This rule does not limit a court's power to: (3) set aside a judgment for fraud on the court.

18 U.S.C. § 401 (2) – CONTEMPTS: POWER OF COURT – "A court of the United States shall have power to punish by fine or imprisonment, or both, at its discretion, such contempt of its authority, and none other as *misbehavior of any of its officers in their official transactions.*

28 U.S.C. § 1331 – JURISIDICTION: FEDERAL QUESTION – "The district court shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States."

28 U.S.C. § 1343 – JURISDICTION: CIVIL RIGHTS – "(a)The District courts shall have original jurisdiction of any civil action authoritzed by law to be commenced by any person: (3) to redress the deprivation, under color of any [State law] secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States; and (4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of [civil rights].

42 U.S.C. § 1983 – CIVIL RIGHTS: CIVIL ACTION FOR DEPRIVATION OF RIGHTS – "Every person who, [under color of any statute of any State] subjects [and] causes to subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of 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 proceeding for redress[.]"

42 U.S.C. § 1988 – CIVIL RIGHTS: PROCEEDINGS IN VINDICATION OF CIVIL RIGHTS – "(a) The jurisdiction in civil matter conferred on the district courts by the provisions of titles 13, 24, and 70 of the Revised States for the protection of all person in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect[.] .

42 U.S.C. § 3000, *et seq.* – PROGRAMS FOR OLDER AMERICANS: DECLARATION OF OBJECTIVES AND DEFINITINS; GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING; ALLOTMENTS FOR VULNERABLE ELDER RIGHTS PROECTION –

42 U.S.C. § 3001, "The Congress hereby finds and declares that, in keeping with the traditional American concept of the inherent dignity of the individual in our

democratic society, the older people of our Nation are entitled to, and it is the joint and several duty and responsibility of the governments of the United States, of the several States and their political subdivisions, and of Indian tribes to assist our older people to secure equal opportunity to the full and free enjoyment of the following objectives:

"(10) Freedom, independence, and the free exercise of individual initiative in planning and managing their own lives, full participation in the planning and operation of community-based services and programs provided for their benefit, and protection against abuse, neglect, and exploitation." [R. 260].

42 U.S.C. § 3002 – REPRODUCED FROM THE RECORD IN THE DISTRICT COURT AND INCLUDED WITH THE SUPPLEMENTAL APPENDIX

42 U.S.C. § 3027 (a)(1), "The plan shall provide, whenever the State desires to provide for a fiscal year for services for the prevention of abuse of older individuals—(A) the plan contains assurances that any area agency on aging carrying out such services will conduct a program consistent with relevant State law and coordinated with existing State adult protective service activities for-(ii) receipt of reports of abuse of older individuals; (iv) referral of complaints to law enforcement or public protective service agencies where appropriate. [R. 291].

(12)(B) "The State will not permit involuntary or coerced participation in the program of services described in this paragraph by alleged victims, abusers, or their households[.]" [R. 299].

42 U.S.C. § 3058b (b), "If the Assistant secretary finds that any State has failed to carry out this subchapter in accordance with the assurances made and description provided under 42 U.S.C. § 3058d of this title, the Assistant Secretary shall withhold the allotment of funds to the state." [R. 313].

42 U.S.C. § 3058ee (a), "Access – The Assistant Secretary, the Comptroller General of the United States, and any duly authorized representative of the Assistant Secretary or the Comptroller shall have access, for the purpose of conducting an audit or examination, to any books, document, papers, and records that are pertinent assistance received under this subchapter. [R. 331].

BASIS FOR JURSDICTION[3]

ON PETITION FOR WRIT OF CERTIORARI

1. General basis in good faith; JUDGES in the lower courts do not correctly, decently, or reasonably recognize the Opening Complaint, but refuse to recognize a question under jurisdiction remains untreated in the court's records. Thus *issues* of the *personal jurisdiction* of JUDGES arise in *Fraud on the Court* terms and are improperly *mitigated* to misprise the District of Utah Court, and the Tenth Circuit Court of Appeals, of the content of the Opening Complaint.
2. U.S. Supreme Court Rule 10 (a) and (c), the Court of Appeals has defaulted and so decided an important issue of law while having departed excessively from an acceptable course of review, and has misrepresented the Opening Complaint to coerce the case dismissal under color of law, now falsifying standards of *claim/issue preclusion* are nominally limited to relevant precedence. The lower courts obstruct jurisdiction and good faith in *read and review*.
3. Petition for *Writ of Certiorari* to United States Supreme Court is timely before 9/6/2021 (Labor Day). (U.S. Supr. Ct. R. 13(1); 28 U.S.C. § 2101).

[3] Basis for Jurisdiction begins with the most recent issue, and extends back in time to the most original relevant issue. In the same order as defined from U.S. Supr. Ct. R. 14 (e).

4. A panel for the U.S. Court of Appeals for the Tenth Circuit dismissed Appeal after a Petition for Rehearing, 6/8/21.[4] The panel held the petition for three seasons and issued a flippant and insubstantial disposition.
5. The U.S. Court of Appeals for the Tenth Circuit recalled its mandate, 6/3/21.[5] The case was apparently *missorted* into a pile of cases governed by the 14-day expression of the rule (original criminal cases and private civil cases), and not the correct 45-day expression of the rule as based in the entitlement. (Fed. R. App. P. 40 (1)). The petition for rehearing was timely filed, but the filing was voided or tampered with by the Appellate clerk.
6. Said mandate issued in error on 5/18/2021.[6]
7. Panel Member, Hon. Ms. Meghan L. Moritz issued a dispositive order and judgment, 4/26/21; referred to herein, "The Moritz Opinion."[7]
8. Hon. Mr. Dale A. Kimball (D. Utah) issued a judicial affidavit of appeal taken in bad faith, 2/1/21, against objections.[8]
9. Hon. Snr. Judge Dee Benson died 12/1/2020 while the case was in U.S. Court of Appeals for the Tenth Circuit.[9] I issued Notice recognizing his passing the

[4] Main Appendix, at 001.

[5] *Id.*, at 003

[6] *Id.*, at 005.

[7] *Id.*, at 007.

[8] *Id.*, at 023.

[9] https://www.deseret.com/utah/2020/11/30/21729800/news-u-s-district-judge-dee-benson-dies-at-age-72

following month when that information came to my attention; the case was then promptly reassigned to Hon. Snr. Judge Mr. Dale A Kimball.

10. Hon. Mr. Benson dispositioned a *Motion to Set Aside for Fraud on the Court*, 7/8/2020.[10] The issue is expansively misleading and demonstrates a deep and deliberative misreading of the record extensive enough it would require interrogatory.

11. I filed a *Motion to Set Aside for Fraud on the Court*, defining terms for judicial *recusal* are relevant, which also defined standing in U.S. Courts of Appeals, Fed. R. App. P. 4.

12. Hon. Mr. Dee Benson and Hon. Chf. Mag. Mr. Paul M. Warner issued order and judgment disposing 4/27/20; referred to herein, "The Benson Opinion."[11]

13. Pursuant vindication of my Original Complaint[12] defines Federal Jurisdiction under the Older Americans Act and the Civil Rights Act,[13] rel. to the Utah Division of Aging and Adult Services/Adult Protective Services (a joint agency), and so the United States Supreme Court may cite 28 U.S.C. § 1254(1),[14] reviewing a constitutional claim against the State of Utah, the Jurisdiction of

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[10] Mn. Appx., at 027.

[11] *Id.*, at 031.

[12] Supplementary Appendix, *Opening Complaint,* at 011-101.

[13] *Id.*, at 032-034.

[14] "Cases in the courts of appeal may be reviewed by the Supreme Court by the following methods: (1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree[.]"

the U.S. Court of Appeals for the Tenth Circuit, 28 U.S.C. § 1291 – Federal Question Jurisdiction of the U.S. District Court (28 U.S.C. § 1331) defined the Older Americans Act of 1992, 42 U.S.C. § 3000, *et seq.* and Ut. Code § 62A-3-301, *et seq.*, (Utah DAAS/APS).

14. A statute of Utah DAAS/APS statutory claim, a "censure," is pre-empted by the Older Americans Act and the constructive observation of civil rights: Federal laws related to definitions and prohibitions of *Conflicts of Interest/coercion* of parties genuine interest in State plans, and the Civil Rights Act jurisdiction which is conferred where no other remedy may be available (42 U.S.C. § 1343) to vindicate Civil Rights in relation to the Older Americans Act, civil injunction not yet reviewed, 42 U.S.C. § 1988, and civil fine not yet reviewed, 42 U.S.C. § 1983.

15. The District Court Judge dismissed the case under the authority of the IFP screening statute, 28 U.S.C § 1915(e), without any other pre-trial process 4/27/20.

16. Service of Complaint and Summons was completed 4/20/20.

17. The Opening Complaint filed in United States Court for the District of Utah on 4/3/2020, after the court had granted a Motion to Proceed in forma pauperis that same day.[15]

[15] When filed, the COVID-19 Pandemic was becoming critical, and the clerk for District Court took the filing electronically, PDF Documents and filed them directly on my behalf, that is, with my consent.

OTHER POINTS RELEVANT TO ORIGINAL JURISDICTION OVER THE MATTER

18. The Chief Judge of the U.S. District Court for the District of Utah was directly petitioned to intervene under 28 U.S.C. § 136(b),[16] but did not make any reply. [R. (Letter of Notice) 633-637; (Notice on Motion to Recuse) 638-643, 648; (Request for Reassignment of the Judge) 653-661.

19. A supplementary brief advising the United States Supreme Court of the conditions of Criminal Contempt will be filed to maintain brevity.

20. Note on Personal Jurisdictions: Any Justice maintaining likely personal familiarity with the relevant jurists who hold personal jurisdiction over the case has been asked to recuse on a separate paper motion.

21. Note on Personal Jurisdiction: Hon. Ms. Meghan L. Moritz was requested to recuse from this matter if found assigned, she has not addressed this matter. [R. (Notice of Appeal) 671].

The pre-trial documentation is *extensive*, with prepared indexes of relevant laws, legislation, and case background, and case disclosures. The documentation will be sufficient to proceed through a pre-trial process, and support Motions for Interrogatory subpoenas and a dispositive motion for an indefinite injunction.

[16] "The Chief judge shall have precedence at any session he attends."

STATEMENT OF THE CASE

I.

At *Fraud on the Court,* rel. and apparent *Criminal Contempt* in his/her official transactions, I demonstrate the legal limitations to the *Law of the Case* doctrine, the *Rooker-Feldman* doctrine, *res judicata, claim/issue preclusion, transactional approach* or unconstitutional dispositive *issue preclusion,* all to allow against the prejudice of an *Obstruction of Justice,* review of the constitutionality of a state law.

I generally restate from a *Motion to Set Aside for Fraud on the Court,* this Statement of the Case which will provide the United States Supreme Court with direct supervisory review. Original pleadings were represented in the Third Person. I have taken significant care that all citations are true to the original record as the record presented for review.[17]

United States Supreme Court should reject relevant holdings of the United States Court of Appeals for Tenth Circuit, and the U.S. Court for the District of Utah, for a lack of express Subject-Matter jurisdiction because U.S. Courts do not have jurisdiction, nor any judge the inherent personal jurisdiction, to dismiss unresolved and competently placed civil applications; for Insufficiency of Process, the lower court opinions have not developed a process sufficient to bear technical reference, or

[17] The original Opening Complaint directed any person reviewing to a Supplement of relevant laws, a significant and comprehensive compendium of statutes related to this case. The supplement consists of printed copies of the Public Law, relevant Utah laws, and various real authorities. It is available on the electronic record which was transferred to the Court of Appeals.

export/import *Law of the Case* precedence and prejudice, "[The Benson Opinion][18] lacks subject-matter is not related to any part of the petitioner's complaint. [The Nuffer Opinion][19] also lacks subject-matter jurisdiction. (Fed. R. Civ. P. 12 (b)(1)). Both opinions as cited in the dispositive [judgment and order] refer only to the IFP statute and make no recognizable claim related to any statement [I] actually pleaded."

"Both opinions are provided beside a Supplemental brief of disclosures wherein all prior case process is made available."[20] [Citing Supplementary Brief of Disclosures, UTD ECF No. 4-7, Case No. 2:20-cv-00205-DB].

"The only conclusion [I] can reach is that [The Benson Opinion] has not read the complaint he cites to a deficiency,

> "Plaintiff's complaint in this action is generally confusing and difficult to comprehend. As best the court can decipher, it appears that Plaintiff's complaint alleges that his civil rights were violated in the proceedings in the Administrative Case and that certain Utah statutes and legislation are unconstitutional."[21]

Thus, a restatement of the Nuffer opinion carried through maintains a preclusive effect characteristic of prejudicial case screening under the *in forma pauperis* statutes,

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[18] Main Appendix, The Benson Opinion, at Page 032-043.

[19] *Id.,* The Nuffer Opinion, at 053-060.

[20] Supplemental Appendix, *Motion to Set Aside,* ECF# 20, at 105-125, 108 ¶11-13.

[21] Mn. Appx., Benson, at 037.

> "After reviewing Plaintiff's [complaint], Judge Nuffer concluded that Plaintiff's action was barred by the *Rooker-Feldman* doctrine. Judge Nuffer also concluded that it would be futile to provide Plaintiff with an opportunity to amend his complaint. Accordingly, Judge Nuffer [dismissed] with prejudice under the authority of the IFP statute for failure to state claims upon which relief could be granted. *See* 28 U.S.C. § 1915(a)(2)(B)(ii).[22]

The Benson Opinion generally has prejudiced case termination without subject-matter review, and upholds a declaration of "meritlessness."

The Moritz Opinion (present representation) rejects Benson's review more irrespectively of the Nuffer opinion, and then *deviates* from withstanding expression of United States Supreme Court, is comparably *deviant* to the Nuffer opinion.

"Without statutory basis to preclude any claim, as to find a claim precluded in Utah Appellate Courts,

> The Supreme Court has made clear that federal courts have jurisdiction over suits to enjoin state officials from interfering with federal rights: 'A plaintiff who seeks injunctive relief from state regulation, on the ground that such regulation is pre-empted by a federal statute which, by virtue of the Supremacy Clause on the Constitution, must prevail, thus presents a federal question which the courts have jurisdiction under 28 U.S.C. § 1331 to resolve.' *The Wilderness Society v. Kane County, Utah* 470 F.2d 1300, 1304 (D.Utah, 2006) citing *Shaw v. Delta Airlines, Inc.,* 463 U.S. 85, 96 n. 14 (1983).[23]

The above citation from the Motion (Fed. R. App. P. 4) and a faithful *read and review* of the Opening Complaint, which I believe I have the right to insist upon, are

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[22] *Id.,* at 049.

[23] Supp. Appx., *Motion to Set Aside,* at 117 (¶42).

sufficient to remand this case. Why should a judge have neglected clear expression on any order? This question is more important in Reasons Granting this Petition (Part II).

Due to the extraordinary caprice of several Judges there is more.

II.

"The Older Americans Act, as stated in the complaint Jurisdiction,[24] has Federal question [standing] both in OAA statutes 42 U.S.C. § 3027 and 42 U.S.C. § 3058i, and Utah Administrative Rule R510-1,[25] which cites the OAA." [Citing the Opening Complaint at Page 13 ¶46].

"The Civil Rights Act may share the same standing in a course of *vindication,* given precisely that 42 U.S.C. § 1988 [prevails] the Federal question when stated, 'the jurisdiction in civil and criminal matters conferred on the district courts... shall be exercised in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect."[26]

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[24] *Id.,* Opening Complaint, at 011, 032-034.

[25] R510-1 is more directly relevant to Service of Process (032), and Facts (036) establishing direct merit to review under the Utah Administrative Procedures Act, and also defines how the agency is interpreted by the Older Americans Act. That is, I serve ancillary Utah records-keeping agencies because Federal statutes have been delegated by the State of Utah to serve the genuine interests of those agencies. [R. (Supplement of Statutes, Rules, Authorities and U.S. Constitution) 201-389; 254]

[26] Supp. Appx., *Motion to Set Aside,* at 117-18 ¶42-44.

This obviously includes issues under *Rooker-Feldman* doctrine because U.S. Courts will nominally mitigate prejudice to hear equitable claims for relief.

What the Nuffer opinion accomplished was to color his own misrepresentations of civil right under context of *Rooker-Feldman* speculations without ever establishing whether the competing claim against *sua sponte* judicial opinion were factual or not, "Appellant has a responsibility to disclose the previous attempt at filing and proceeding this case matter was critically obstructed, and perjured against. Case 2:18-cv-00728-DN-PMW (D. Utah), [10th Cir. Case No. 19-4041], at the time it was filed met an obstruction of process at summons[.]"[27]

But if I can observe the Nuffer opinion less directly, then the court has the right to agree with me, if left alone the Nuffer opinion is nominally limited to a *late* attempt to remove a State of Utah Administrative case to the Federal court.

Any opinion defined to be related and so *precludes* and *closes* judicial review technically implicates bad faith against Judge Nuffer's *personal jurisdiction*, as *would* define any subject-matter treatment of my case as "meritless."[28]

It seems to me those expressions demand too much of my opportunity to present this OAA question. The Court will also recognize the Benson opinion maintains *transactional* misrepresentation comparably.

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[27] Supp. Appx., *Disclosures* (ECF# 4-7), at 154-157.

[28] Mn. Appx., Order and Judgment, Case No. 20-4087, at 051; see also [Benson] at 034.

Either way, the Court of Appeals has not effective right to alter the standing of my pleadings under *Abuse of discretion* terms; if my expression of the case falls short, the relevant argument will reject me directly. The Moritz Opinion in conducting the same kind of bad-faith *maintenance,* is maliciously *correlative*, not logical and clear, and *falsely objective*, without substantive originality herein.

Clarification of the Benson and Moritz opinions is absolutely necessary.

The Benson opinion had not basis in fact or law to develop *Summary Judgement,*

> "[Under] this transactional approach adopted by the Tenth Circuit, the court concludes that of Plaintiff's 'claims or legal theories of recovery' in this action against State Defendants 'arise from the same transaction, even, or occurrence.' *Wilkes v. Wyo. Dept. of Empl. Div. of Labor Standards,* 314 F.3d 501, 504 (10th Cir. 2003). Plaintiff's complaint in this action make it clear that [all of his claims] and legal theories have their genesis in the Administrative case."[29]

"*Wilkes* itself is sustained of *King v. Union Oil co.,* 117 F.3d 443 (10th Cir. 1997), a Rule 56(c) standard, that,

> 'A summary judgment is appropriate if there is no genuine issues as to any material fact and...the moving party is entitled to judgment as a matter of law.' *Id.*

"[The Benson Opinion] is excepting an important decisional element in *Wilkes,* 'This court has repeatedly held that 'all claims arising from the same employment relationship constitute the same transaction or series of transactions for claim

[29] Supp. Appx., *Motion*, at 110; See also, Mn. Appx., at 041.

preclusion purposes." *Wilkes* at 504, citing *Mitchell v. City of Moore,* 218 F.3d 1190, 1202 (10th Cir. 2000).

"This is neither a civil cause at action without Federal laws to find a Federal question intervening to action by and under the Civil Rights Act (this is a late pre-emption case), nor is there any subject-matter basis against which a Summary Judgment related to the IFP statute, as should been have found from [the Nuffer opinion], and opinions from Utah Appellate Courts."[30]

The Mortiz Opinion does not directly recognize that above pleading under Fed. App. R. App. P. 4, and digresses immoderately,

> "We review de novo dismissal under § 1915(e)(2)(B)(ii). *See Kay v. Bemis,* 500 F.3d 1214, 1217 (10th Cir. 2007). To the extent that Velasquez raises any claim of error in the district court's denial of his post-judgment motions, we review those rulings for abuse of discretion. *See United States v. Buck,* 281 F.3d 1336, 1342-43 (10th Cir. 2002)(reviewing denial of relief on ground of fraud on the court for abuse of discretion); *United States v. Mobley,* 971 F.3d 1187, 1195 (10th Cir. 2020)(reviewing denial of motion to recuse for abuse of discretion)... Velasquez raises no meritorious claim of error on appeal. It is unclear whether he challenges the district court's holding on any of the claim preclusion elements, and if so, what his contentions are."[31]

The Moritz opinion develops no clarifying perspective or reference defined on the *Motion.*

[30] Supp. Appx., *Motion to Set Aside,* at 111 ¶18-21.

[31] Mn. Appx., The Moritz Opinion, at 011.

She goes on to cite my Appellate brief,[32] but disrespects the *Motion to Set Aside for Fraud on the Court* indirectly, and develops a *sua sponte collateral attack* which ignores the *Wilkes-King* Fed. R. Civ. P. 56 construction/criticism, procedurally ignores the Opening Complaint: she misrepresents petitions and filings to conduct political misdirection, and now tests this court for its power of real acuity, the implied standing of *certiorari* questions.

Yet she agrees with me,

> "We nonetheless conclude that the district court erred in dismissing [based] upon claim preclusion. Although Velasquez has forfeited review of this error by failing to raise it in his appeal brief, *See Bronson v. Swensen,* 500 F.3d 1099, 1104 (10th Cir. 2007), we exercise our discretion to address it, *See U.S. v. McGehee*, 672 F.3d 860, 873 n.5 (10th Cir. 2012)."[33]

I reject every statement made on the Moritz opinion primarily because it is pursuant the same *Fraud* and frivolous appeal as the Nuffer opinion. She commits *perjury* against my Appellate Brief to ignore *Wilkes-King* Rule 56 construction, a comprehensive False declaration,

> "A judicial officer must do more than speculate, 'There must be something to plausibly suggest that defendants published false information. See *Ashcroft v. Iqbal,* 556 U.S. 662, 19 S. Ct. 1939, 1949, 173 L.ed.3d 868 (2009)(explaining *Bell Atl. Corp. v. Twombly,* 550 U.S. 544 (2007), plausibility standards asks for more than a sheer possibility that a defendant has acted unlawfully'); see also

[32] NOTE ON THE APPELLATE BRIEF: NOT APPENDED; The brief is shorter than the Notice of Appeal, but maintains similar claims.

[33] Mn. Appx., [Moritz] at 012.

Ridge at Red hawk, L.L.C., v. Schneider, 439 F,3d 1174, 1177 (10th Cir. 2017).[34] [R. (Notice of Appeal) 701 ¶65]

That citation is critically prejudiced, but entertains circumstance of *fraud* committed by a Federal officer in the Tenth Circuit. "Indeed, *Twombly's* plausibility standard requires,

> 'factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.' *Ashcroft*, 129 S.Ct. at 1979. 'Vague allegations do not suffice. *Mecca v. U.S.* 389 F.Appx. 775, 785 (10th Cir. 2010)."

Both the Criminal Contempt statute and the *Fraud on the Court* citation provide such a context as *deliberative misrepresentation by a judicial officer in the course of read and review.*

The Moritz Opinion generates a complex perjury of the *Law of the Case* doctrine, expressly in defective procedural solipsism, producing *issue preclusion* standing on *alternative basis,* while I yet have a true question and significant political complaint,

> "[A] dismissal for lack of jurisdiction still precludes a plaintiff from relitigating that ground for dismissal... A dismissal for lack of jurisdiction...precludes relitigation of the issues determined in ruling on the jurisdiction question[.] *Brereton v. Bountiful City Corp.,* 434 F.3d 1213, 1219 (10th Cir. 2006) (holding the preclusive effect of a dismissal for lack of standing 'is one of *issue preclusion* (collateral estoppel) rather than *claim preclusion* (res judicata); 18A Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 4436 (3d ed., Oct. 2020

[34] "The complaint must give the court reason to believe that this plaintiff has a reasonable likelihood of mustering factual support for these claims." *Id.*

update)('Although a dismissal for lack of jurisdiction does not bar a second action as a matter of claim preclusion, it does preclude relitigation of the issues determined in ruling on the jurisdiction question unless preclusion is denied for some other reason.') Because issue preclusion bars Velasquez's claims against the State Defendants in Velasquez II, we exercise our discretion to affirm the district court's dismissal of those claims on an alternative basis."[35]

> "We treat arguments for *affirming* the district court differently than arguments for *reversing* it. We have long said that we may affirm on any basis supported by the record, even if it requires ruling on argument not reached by the district court or even presented to us on appeal." *Richison v. Ernest Group., Inc.,* 364 F.3d 1123, 1130 (10th Cir. 2011). Thus, we must affirm the district court's judgment 'if the result is correct although the lower court relied upon a wrong ground or gave a wrong reason." *Id.* Moreover, Velasquez had the opportunity to address claim preclusion in the district court, and the doctrines of claim preclusion and issue preclusion are 'closely related,' *SIL-FLO Inc. v. SFHC, Inc.,* 917 F.2d 1507, 1520 (10th Cir. 1990). Finally, issue preclusion presents a legal question. *See Bell v. Dillard Dept. Stores, Inc.,* 85 F.3d 1451, 1453 (10th Cir. 1996). Thus, the efficient use of judicial resources weighs against remand for initial consideration by the district court."[36] (Footnote 5)

Generally, *issues* are derivative of trial, *Issue preclusion* is rather determinant from previously resolved questions, and petitioners sometimes err in a new complaint or motion believing there is *basis* to circumvent the effect of a prior judgment, *collateral estoppel.*[37]

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[35] Mn. Appx., [Moritz] at 013.

[36] Mn. Appx., [Moritz] at 014, Footnote 5.

[37] "The court of appeals affirmed the district court's dismissal on alternate grounds. *Moss v. Parr Waddoups Brown Gee & Loveless,* 2010 UT App 170, ¶13-4, 237 P3d 899... [Even] though Moss was

In terms of Utah law, and in terms of the Nuffer opinion, where this subject is relevant, this second petition is not a direct *collateral proceeding*, the various judges under review are perhaps being too liberal with a terminology of 'Absolute Judicial Privilege.' They consistently gravitate to a rights "injury" in the Utah Appellate Courts, not a position I developed for review, and fraudulently exploited that prospect as if I complained of abusive disposition at necessary judgment.[38]

The Supreme Court must recognize this OAA question has not been respected or answered, so I ask any justice consider that if there is available jurisdiction for a true question, there is relief from a judgment barring that question.

Therefore, the fact is evident the Moritz Opinion neglects Summary Judgment basis while carrying frivolous speculations against an appellate brief. Did she actually mean the court previously resolved jurisdiction?

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not a party to [suit], the court of appeals held that she was 'similarly precluded from collaterally attacking the validity of the discovery orders' because she could have 'filed a motion to intervene or a petition for an extraordinary writ.' *Id.* ¶11. The court of appeals quoted, 'the general rule of law' that 'a judgment may not be drawn in question in a collateral proceeding and an attack upon a judgment is regarded as collateral if made when the judgment is offered as the basis of a claim in a subsequent proceeding.' *Id.* ¶14 (quoting *Olsen v. Bd. Of Educ. Of Granite Sch. Dist.,* 571 P.2d 1336, 1338 (Utah 1977)). ¶12. *Moss v. Parr Waddoups Brown Gee & Loveless,* 285 P.3d 1157, 2012 UT 42, 1162 ¶15.

[38] The original claims of injury were part of a Notice of Appeal prefaced the complaint presented before Judge Nuffer.

The answer is No. She *actually* intends because original jurisdiction was relevant *under* the Nuffer opinion, we can no longer litigate the originality of any part of the question which Hon. Mr. David Nuffer took up and extended across the entire constitutional basis for such effective claims as would depose a State's congressional statute, by merely alleging or speculating I had immediately failed to do so.

Moritz' *Abuse of discretion* standard will imply that because the matter is not technically settled, I cannot win a disagreement with the judge. But that is what the *Fraud on the Court* citation is for, and it supercedes very technically any opinion or affidavit merely rejecting an *abuse of discretion* was made without a technical showing. Proceeding against my pleading *voided* my written representative assessments.

Thereby, it rather appears the Moritz opinion has found cause within the express terminating power of the court of appeals to state the appellant forfeits his right to the lawsuit even if a previous *question* somehow went unheard. Is that not a cruel convention, which coerces legal *forfeiture* of deliberative misrepresentation? Legal *forfeiture* and *default* is obviously not ever based in the speculative authority of the IFP screening statute especially while *Fraud* and *Criminal Contempt* allegations remain withstanding.

Restated, The Moritz Opinion nullifies the effect of the Benson Opinion, but maintains and redevelops the vague hostility expressed by the Nuffer opinion to demonstratively ignore obvious difference between *intended issues/federal questions* and reviewable *issues* (final decisions).

Does the OAA *intend* or *support* lawsuits against states which violate rights and coerce persons/families participation in state programs? This is my original question, buried under judicial misrepresentation. If only judges had appreciated it readily, and made any rejection of my *document* more appreciable.

Such is a direct and adversarial *evasion,* and an illegal form of *claim avoision,* similar to people who pretend not to have received documents served. The judge or clerk doing so dispositions the whole court. If all judges were allowed to go that way, the court would drift chaotically into political sedition.

Some would argue the very same obstruction was once committed by the Former Hon. Pres. Mr. James Madison, that before *Marbury v. Madison,* 5 U.S. 137 (1803) Obstruction of Justice on original issues by plausibly illegal *issues avoision.*

A *lack of jurisdiction* must be demonstrated, and plausible jurisdiction may dismiss without prejudice. Why would a judge lie, or even fail to be clear? Where was the Benson opinion ever factually precedented? The affidavit of *deficiency* cannot be so irrespective as to be indecent, unreasonable, illogical, or manifestly unjust for all the time, energy, and spirit it takes to petition for judicial review.

REASONS GRANTING

I.

Are the Nuffer, Benson, and Moritz opinions unconstitutionally denying me *original standing*, and reasonable appellate standing on implicit and totally undefined *personal jurisdiction* terms?

The real question is upon the availability of jurisdiction, and not on unconstitutional *claim forfeiture,* or *issue preclusion,* as represented on the Statement of the Case in the United States Supreme Court.

The Moritz opinion represents both The Benson and Nuffer opinions, but is entirely devoid of expression of subject-matter jurisdiction. The specifics of the Opening Complaint have represented The Older Americans Act and the Civil Rights Act recognize any State plan may be reviewable, original jurisdiction not a subject usually requiring explanation than the relevant laws will show and allow.

The *Motion to Set Aside for Fraud on the Court* directed the reader to review *claims for relief,* Fed. R. Civ. P. 8, but "relief" in this terminology *pre-trial* is not that "relief from a judgment" but is more comprehensive, deeper *statutory relief* which I describe in terms of *qualified exclusivity.*

Differing jurisdictions entertain different subject questions, and are provided only slightly different approaches to the rules of procedure. Without the technical showing of exactly why the Opening Complaint is deficient, the lower court judges establish a parliamentarian vanguard of disinterest which rejects the complaint

on-sight and prevents the filer from being present with most succinct and relevant verbal expressions.

This assessment is evident: The OAA is critically restated across the Opening Complaint in context with certain UDHS agency laws which bear relevance; more generally, I presented a technical and pragmatic evaluation of the statute citing *Mathews v. Eldridge,* 424 U.S. 319 (1976) for developments therein rel. *Morrissey v. Brewer,* 480 U.S. 471 (1972), and "[generated] six evaluative questions relevant to Utah DAAS/APS, 'Supported' claims and investigations defined of *Abuse of a Vulnerable Adult* per 42 U.S.C. § 3002(1), Utah R510-1, and Ut. Code § 62A-3-301(2), holding the power is exclusively administrative and does not grant a civil-administrative privilege to the case worker because the precise discretion, the process due exercised, is always due of administration of licensure in its discrete capacities of professional knowledge, proximity, thus capacity, to care for the *vulnerable adult."*[39]

The Due Process operates in an administrative consent-relevant dialogue, and beyond that is *coercive:* "On civil censure, the prejudice appears *de facto* of the Abuse statute; but a statute defined of an untried claim is *ex post facto,* and its advocacy questionnaire rather relies upon the necessity to protect the [Vulnerable Adult] than it does upon the allegation against the respondent."[40]

[39] Supp. Appx., Opening Complaint, 067.

[40] *Id.,* 077 ¶172.

Above is from the *Analysis* part, presenting the fourth of six evaluative Due Process questions related to Adult Protection Reports ("questionnaire"), "Whether Professional Capacity is Unrelated to Civil Claims," this presents strong reasoning for recognizing how clauses prohibiting *Conflicts of Interest, coercion of participation,* are perceived to be civil-rights affirmative.

By this time in the petition, I have already presented the *Statement of the Case* sufficiently to carry the argument through; the argument, without further analysis is less than three pages, "particularly, 42 U.S.C. § 3058d (a)(6)(B), 'the state will not permit involuntary or coerced participation in the program of services described [by alleged victims, abusers, or their households]."

"[I] also hold the question of tangible deliberation to violate right when there is strong precedence for the State to both observe that the "supported" claim lacks process when it is effective as declared by an APS case worker, and to have evaluated *strict scrutiny* of such an issue before effect, Utah S.B. 63 (2008)."[41]

This is, or would be, a "Fabric of our Constitution" styled argument which the Older Americans Act makes very plain; I present generally that we have demonstrated very real and efficient pervasive and instrumental *Public Standing*; there is literally a broad and comprehensive doctrine which centralizes any and every issue.

[41] *Id.*, 067-8.

The *Motion to Set Aside* directs the Judge presiding, the Appellate Panel, to first read the complaint in order, and to follow its many recitations and references to the statutes which are currently upon the record and only provided to this brief a happy modicum of the genuine interest of the Opening Complaint based in Relevant Statutes.[42]

The emphasis of the *Motion* is in support of the available claims for relief, although I have not yet filed a dispositive motion without more conferencing and process, "The Statement of the complaint provides insight into the complexity of the question, that it involves several UDHS agencies, and the argument develops the grounds for injunction, legal fine, is synthetic."[43]

The Benson and Moritz opinions never delve into the Opening Complaint sufficiently to recognize the seven citations from the *Motion* (See Note 42) the *in forma pauperis* statute operates as jurisdiction *per se,* otherwise stated *in lieu* of jurisdiction, that process supplanting statutory review and obstructing the evaluation of the available jurisdiction, denying to hear the pre-trial case, and denying relief from the judgment.

In re Philadelphia Entm't partners v. Commonwealth of Pennsylvania Dept. of Revenue, 569 B.R. 394 (E.D. Pa. 2017) is a highly capable standard to allow *original*

[42] *Id., Motion to Set Aside,* at 107 ¶8.

[43] *Id.,* ¶9.

jurisdiction to stand any independent claim.[44] *Great Western Mining & Mineral Co., v. Fox Rothschild LLP,* 615 F.3d (2010) is an implacable expression of *Exxon-Mobil Corp. v. Saudi Basic Indus., Corp.* 524 U.S. 280 (2005) narrative given its observation of jurisdictional-procedures inherent; *review and reject*[45] the state court judgment nominally means direct *intervention by amendment* and does not limit civil *pre-emption* cases.

Otherwise, the Moritz ruling constitutes a direct change in the limitations of the Federal Jurisdiction, and that opinion is not clear, and is not actually precedented. The insinuation on the Moritz opinion is of somehow-deficient standing, but that is not expressed either.

The Moritz Opinion therefore is not complex enough to recognize that difference, and conflicts the intentions of *Fraud on the Court* citations in terms of a deliberative misrepresentation with generalized basis for *issues preclusion.* She neglects that if there is *Fraud, issues preclusion* is the last assessment and not the first, she can always have guaranteed *Fraud* by not representing a true filing.

Therefore, the basis for Summary Judgment is not settled sufficiently for *claim preclusion* or *issue preclusion,* the *transactional* frame of *issue preclusion* is patently fraudulent without a careful appreciation of Subject-Matter. A petitioner twice filing

[44] *Id.,* at 109 ¶15.

[45] *Id.*

defective documents is owed the most plain showing of the technical deficiency, and *not* the unreviewable machinations of *obstruction of jurisdiction.*

Open review of that subject will find the most general statutory questions are withstanding, and the State of Utah will be burdened to account for *how* its records keeping practices are relevant to families, and duly authorized to maintain the OAA, and Civil Rights which the OAA also happens to maintain in a terminology prohibiting statutes of *conflicted interest.*

"The right in question has observable statutory origins under OAA, 42 U.S.C. § 3001(1), 'to secure equal opportunity to the full and free enjoyment of the following objectives: Freedom, independence, and the free exercise of individual initiative in planning and managing their own lives, full participation in the planning and operation of community-based services and programs provided for the benefit, and protection against abuse, neglect, and exploitation.'" (Cited Appendix B, 42 U.S.C. § 3001, at Page 056, [R. 260])[46]

The above Due Process[47] part of the Statement of the Case[48] prefaces a perspective which includes family members right to be free from coercion of participation in state plans, even persons the state agency would hold issue against, on the basis the agency's centralizing goal is *supportive* and *protective,* and the so

[46] *Id.,* 047-48 ¶55-57.

[47] *Id.,* 046-054.

[48] *Id.,* 040-067.

citizens in the State of Utah, and any state really, are plausibly *immune* from a civil censure. The original immunity of citizens in Public Standing terms, *impartial* and without unnecessary intervention or abridgment, maintains this question against any lingering fraudulent declaration of *deficiency* rel. IFP Screening statute.

The prejudice behind this argument suggests the state is perseverating historically over the prospect of taking legal responsibility over some *vulnerable adults,* this is *atavism* and that which potentially aggravates complex psychological vulnerabilities.[49]

Generally, the investigatory instrument of an "Adult Protection Report" is being misused and the original complaint defines how delegated by the Utah congress on Utah S.B. 63 (2008). The Opening Complaint is emphatic about this throughout, in terms of Ut. Code § 62A-3-301(28), forensic claims Supporting *Abuse of a Vulnerable Adult.*

The Moritz Opinion fails to uphold distinctions about the intent of the law which are subtle between *intended issues* and *reviewable issues,* and so manages to *Obstruct Justice* of due jurisdiction and due standing without ever hearing and disposing of any kind of plausible legal position based in the relevant laws; the panel deviates abjectly and with apparent deliberation of *legal malice.*

Such a *Fraud* is capable to aggravate the statutory rights related by avoiding knowledge of the issue. *Fraud on the Court* turns out to be an instance of only *partial*

[49] *Id.,* at 094-098.

judgment on an observed *false declaration,* this where the judge is adversary to clarifying and impartial pleadings, *voids* or manipulates the representative expression unduly and/or without consent.

This Due Process perspective is usually sufficient to protect subject-matter related rights, but a *legal malice* will intend to do harm by meddling with, and compounding injury to, people's political standing. Unqualified rejection of his standing and credible representations does so, at the expense of a due process which respected the time and life of persons.

The Moritz opinion neglects that judges' opinions are reviewed in *confidence* to United States Constitution, under oath, and are not immune from discretionary review on appeal, or in original action, where they are the most important participants in court cases who must faithfully represent every relevant person and filing more unerringly.

II.

IFP screening was used as a form of criminalization –

Case Screening in this instance was not precedented.

The Moritz opinion finally operates as an implied pleading to recognize this case as dispositioned criminal case, her solipsism in argument presents and then represents procedural avoision of the *Motion to Set Aside for Fraud on the Court* and then next the *Opening Complaint.*

Her declaration that *Fraud* is "patently without merit" operates to *divert* the court's attention from the direct statements and citations on the *Motion* and provides an improper segue between unprecedented *claim preclusion* and so falsely apparent *issue preclusion.*

No judge prior even once grappled with the argument sufficiently to have dispositioned the Opening Complaint, or have prevented subsequent repeat filings.

The PLRA defines a strict point of absolute foreclosure, logistically this relieves doctrinal precedence from generating unconstitutional interpretive form which states too arbitrarily when the court will no longer hear from a person on a subject.

The Equal Access to Justice Act will guarantee payments of Costs of Fees for successful defendants, and certain successful appeals.

This parity produces, even in instances of partial success, many original express delineations between *claim preclusion* and *issue preclusion.* Without the PLRA three-strikes provision, the appeal in some technical respect can always be revived. The huge majority of these instances are probably resting on solid evidence in the course of procedural review. I have not read all of them.

But they come up in the course of case study, and academic review which makes a sophisticated chronicle of cases at all levels of relevancy. I cited earlier a somewhat famous *civil* case in the Utah Supreme Court for its well-contexted definition of *issue preclusion,* the same case also defines comprehensive limits to the 'Judicial Proceedings Privilege' and I now present it in context to The Moritz opinion

usage of apparently illegal *decisional privilege* which attacks the person filing rather than representation, demonstrating there is aggressive vague judicial expressionism on the opinions which tolerates Criminal misrepresentation of IFP complaints,

> "Historically, the judicial proceedings privilege in Utah has been used to 'immunize certain statements that are made during a judicial proceeding from defamation claims.' *Pratt v. Nelson,* 2007 UT 41, ¶ 27, 164, P.3d 366. We have extended the privilege beyond defamation claims to include 'all claims arising from the same statements.' [Citation omitted].
>
> "Whether the privilege extends to *conduct* as well as *statements* occurring in the course of judicial proceedings is an issue of first impression in Utah. To answer this question, we look to the policies underlying the judicial proceedings privilege, as well as how other states have addressed this issue."
>
> "We have noted that Utah's judicial proceedings privilege has broad underlying principles. 'The privilege is intended to promote the integrity of the adjudicatory proceeding and its truth finding processes.' *Pratt,* 2007 UT 41, ¶27. It 'exists for the purpose of preserving both the integrity of the judicial proceeding and the associated quest for the ascertainment of truth that lies at its heart.' *O'Connor v. Burningham,* 2007 UT 58, ¶30, 165 P.3d 1214.
>
> [Omitting paragraph 31]
>
> "Numerous courts have, in considering the issue for the first time, recognized the wisdom of expanding this privilege to encompass more than just statements occurring during the course of judicial proceedings. For example, the Florida Supreme Court held that the judicial privilege 'must be afforded to any act occurring during the course of a judicial proceeding...so long as the act has some relation to the proceeding.' *Levin, Middlebrooks, Mabie, Thomas, Mayes, & Mitchell, P.A. v. U.S. Fire Ins. Co.,* 639 So.2d 606, 608 (Fla. 1994). The court reasoned that the 'rationale behind the privilege afforded to defamatory statements is equally applicable to other misconduct occurring during the course of a judicial proceeding.' *Id.* The court therefore concluded that attorneys must 'be free

> to use their best judgment in prosecuting or defending a lawsuit without fear of having to defend their actions in a subsequent civil action for misconduct.' *Id. Moss* 1164-7 ¶30-38.

Critically I should point out how all independent litigants have such a same and similar privilege, and in an instant where I have had to return to the District Court *fearing* undue terminations at the interpretive mien of the Supreme Court's previous declination, and the Court of Appeals very limited affirmance (*Rooker-Feldman* doctrine), the judge is competing against my active privilege to proceed beyond unfounded preclusive statements in an attritive gambit for *case visibility*. She increases the risk to my case unnecessarily.

> "[Omit paragraphs 33, 34 on Texas and W. Virginia law.]
>
> "Consistent with the broad policy concerns underlying the judicial proceedings privilege, we agree with these jurisdictions that the privilege should extend to an attorney's conduct occurring in the course of judicial proceedings. The privilege thus embraces the principle that 'an attorney acting within the law, in a legitimate effort to zealously advance the interests of his client, shall be protected from civil claims arising due to that zealous representation." *Id.* At 656. We now clarify the contours of the privilege as applied to attorneys, including what plaintiffs must plead to overcome it." *Id.*

To the demerit of her independence, and those in the lower courts her opinion would maintain, Hon. Ms. Meghan Moritz has rather advanced an indecent and unreasonable position which lacks political *mutuality*[50] at her insistence to apply the

[50] The Moritz Opinion rational attitude, in the words Hon. Pres. Mr. Benjamin Franklin, is *pari passu,* she rejects the mutual understanding of the pleader and departs from form *withstanding* Franklin,

Abuse of Discretion standard of review, and is obscenely unqualified in that exception. She goes beyond simple misrepresentation of the complaint.

The Court of Appeals cannot validate any privilege to compare further restrictions against my right to petition and demonstrate this OAA question; the judges have ignored my pleadings entirely, have not even spared reasonable recognition of the standing of the question.

Therefore she criminally misuses "patent" and express *prejudice* of claim preclusion/issue preclusion delineation characteristic to PLRA/EAJA, wherein convicts and civil losers sometimes attempt to circumvent the rational basis presented with expression of a flawed alternative basis for the same issue. She asks whoever *screens* cases for the United States Supreme Court to treat this case as a defective criminal petitions, all such elements are present but not rooted in or directly against the petitioner's representative filings.

Her use of *Abuse of Discretion* terminology is *fraudulent;* procedurally and disinterestedly, under color of law and authority, *replaces* all pleadings in a manner which compares the qualified disinterest of the court. It is a privilege taken at the expense of more certain representation, and more sparing reasoning.

Benjamin. "An Account of the Highest Court of Judicature in Pennsylvania, viz. The Court of the Press." *Works of the Late Doctor Benjamin Franklin: Consisting of His Life, Written by Himself, together with Essays, Humorous, Moral & Literary chiefly in the manner of The Spectator.* Wogan, Byrne, Moore, & Jones, 1793, 208, 212.

The Moritz opinion, following the same pathos of disinterest first established in the Tenth Circuit rel. The Nuffer Opinion and now the Benson Opinion, is thereby prejudicially requesting and even commanding the subornation of the superior court Justices, and Clerkship, to her active perjury against the Opening Complaint which has abridged this party's Original standing.

There really are not secure arguments at *Fraud on the Court,* either. Once I have analyzed standards of review, the offending judge is already working against me to reject her failures to maintain precedence, and this provokes the Public Standing argument when the judge takes a privilege to misuse the court's power beyond the measurable procedural citation.

The Moritz opinion is illegal because it executes *decisional privilege* unduly under color of Judgment, and has no basis but expresses the terminating power of the court to attempt permanently destroy a case whose background disclosures begin to implicate criminal misconduct by judiciary in the course of *read and review.*

The *decisional privilege* is a capacity of the Public Standing of a United States judge, and when abused provokes the *mutual* standing of the Public person so represented under *abuse.*

She demands at my liberty comparable criminal complicity from members of the United States Supreme Court. Please investigate and correct her.

III.

The New Judicial Federalist as expressed of *Mathews v. Eldridge,* 424 U.S. 319 (1976) is perennial and verbose, primarily because the standard of review evaluates the genuine interest of the United States government, meaning the genuine interest at the execution of the laws is not based in Separation of Powers but rather based primarily in the Public Standing doctrine

The Opening Complaint cannot technically be more brief without more process; a trial brief will largely have resolved any ambiguity in how we define the law and rights at the center of this argument.

It will be cruel and highly unusual to compel a third filing of this same complaint, or even an amended one, while the lower courts have shown an absolute resistance to recognizing the complex question now before the United States Supreme Court.

There has been no showing of technical defect to have mandated termination at case screening, and the reasoning thus proves there was *Fraud on the Court* at deliberative misrepresentation.

U.S. Courts should not be so adverse that we cannot take risks, or be respectfully humbled. This is now many years of my life, my family's life, under duress of a dishonest American judiciary.

RELIEF

A.

U.S. Const. Amends. I and V are violated in terms of the right to petition, against the obstruction or deliberative misconduct thereof; whole complaints and motions addressing speculations have been ignored sepulchral declarations of the judge, meaning that his execution of procedures is decentralized from the petition, and he or she obstructs the original Public Standing of the petitioner in failing to recognize written legal pleadings.

Such actions coerce the frivolous appeal; vagueness and obscurantism are not Federal judicial trademarks.

It was *deliberative misrepresentation* which abridged active pleadings, and coerced procedural results without in error, and without faithful review.

The Court of Appeals should have dispositioned the Rule 4 Appellate process in accord with my *Motion to Set Aside for Fraud on the Court,* and failed to qualify said departure, or actually resolve the conclusions in the Benson opinion.

The Benson opinion is unresolvable in the present context; an example of unqualified termination at case screening, and utterly improperly defined *issue preclusion* in a *transactional* frame.

It is uncertain what element of my Opening Complaint was so totally ill-conceived that the document and any subsequent process could not bear prejudice, or reveal any competently placed question. It will be a hardened miscarriage of justice if I do not find a sufficient explanation from any court and have to present the same document again.

Without rejecting my political standing to the question presented,

> "Article III of the Constitution limits the jurisdiction of the federal courts to particular 'cases' or 'controversies.' The case or controversy requirement helps preserve appropriate separation of power between the courts and the other branches, *Lujan v. Defenders of Wildlife,* 504 U.S. 555, 559-60, 1120 S.Ct. 2130, 119 L.Ed.2d. 351 (1992), and provides the courts with 'that concrete adverseness which sharpens the presentation of issues necessary for the proper resolution of constitutional questions,' *City of Los Angeles v. Lyons,* 461 U.S. 95, 101, 103 S.Ct.1660, 75 L.ed.2d 675 (1983) (internal quotation marks omitted).

The Moritz opinion allows Federal judges to lose sight of how government limits powers of state officers by simply ignoring the characteristic difference between *intended* and plausible issues, and those which are reviewed for their finality.

The Supreme Court must acknowledge the *Fraud on the Court* citation is only a partial judgment which may define the most apparent liability of the judicial officer on any separate issue (incl. one at Costs). *Fraud on the Court* relief operates precisely *to mitigate* false declarations (and even have allowed the judge to correct one) rather than correct errors or mistakes.

I recognize Due Process is damaged where the Right to Petition is abridged the standing of the written filings, effectively altering those pleadings without due cause.

B.

I respectfully define it is requisite, Order remanding to District Court for continued proceedings, validating the original Opening Complaint, and either recognizing or mandating new issue of summonses.

Without more direct replies, the parties served were issued the Opening Complaint fairly, excepting the United States Administration on Aging, who may require separate interrogatory or a separate Notice of Appearance to avoid adversarial standing.

The Benson opinion is *Set Aside.*

Hon. Snr. Judge Dale A. Kimball will preside.

C.

I demand Court of Appeals will hold vacated any opinion immediately dispositive to hearing, or having heard, the present case in context to a challenge against unconstitutionality of the Utah DAAS/APS "Supported" censure; judges voided standing for a question, and failed to competently cite weaknesses in a written document.

The Court of Appeals shall duly amend any related order to make allowance for such a question.

D.

The Nuffer Opinion (2:20-cv-00728-DN) is set aside for *Fraud on the Court,* with citation to the relevant and forthcoming issue. Beyond resolution of claims related to *Fraud on the Court,* the case is *moot.*

The Supreme Court may attempt to decide whether Partial Judgments rel. *Fraud on the Court*, a prompt correction of any *Fraud* may, may or may not, as depending on the severity of the real disposition of a *contempt*, relieve a judicial party from liability at *Fraud on the Court*; as comparable to contempt citations/allegations.

E.

Evaluation of *Criminal Contempts* under 18 U.S.C. § 401(2). A separate brief will be filed addressing this subject.

F.

The Supreme Court may issue notice of any direct misconduct to the American Bar Association against Hon. Ms. Meghan L. Moritz.

Any such question may require further process related to other Judicial Officers, unless the Supreme Court will find it shown by direct association on either the Panel Members Hons. Baldock and Eid, or against the Judge Nuffer in the District Court.

G.

Judgment of Costs and Fees is due; 28 U.S.C. § 2412 at the hourly rate prescribed on the statute, the U.S. Supreme Court will consider an exception at Triple Costs on partiality to reject *legal malice* of frivolous appeals against judicial parties in the U.S. Court of Appeals for the Tenth Circuit.

In the Utah District Court, the Supreme Court may state how comparable fees will be billed, as whether the Court shall pay the Costs and Fees for the deceased provoking the frivolous appeal under *Fraud*, or whether a separate filing shall have to be initiated against the estate of the deceased.

If the Supreme Court rejects the Nuffer opinion, I will consider to file a bill of costs thereon as well.

CONCLUSION

The accusation I begin to develop against the State of Utah is of deliberative Anti-Federalism, or impropriety of Exceptionalism, because the OAA puts the Civil Rights question so close to the Genuine Interest question that it asks states plans to observe a holistic form of the Older American, the Vulnerable Adult.

Prohibition of Coercion *versus* mandatory participation, is a crucial paradigm in health care law, the OAA obviously designs Family Law when necessary to preserve the safety of a party the legal system may otherwise recognize is indigent, or requiring direct professional representation. The OAA protects the person against whom the allegation is made because the genuine interest is that the welfare of the individual not exclude the family, and not to include an overtly unrelated party in the Vulnerable Adult's *advocative continuum*.

The OAA presents for us that the Justice System, not State's Administrative agency, has to have evaluated these questions, because the state's statutory conclusions are actually designed to affirm *protective orders* without controversy. So adjudicative claims are not necessary.

The Opening Complaint covers all of this.

The Utah S.B. 63 (2008) encourages social disinterest in how states how handle these issues. I fear it attempts to psychologically aggravate and punish people who may suffer *abuse* in context with family, attempting to break them psychologically and emotionally in the windfall of some kind of domestic incident.

I accuse judges in the District of Utah Court and the U.S. Court of Appeals for the Tenth Circuit of deliberately aggravating the prejudice. I suspect all have read the principal briefs and motions and deliberately misrepresent more or less totally plain statements out of

sheer contempt for my wordiness, or in a spirit of anti-litigation, or offense at a gross fine, or maybe even contempt for the U.S. Constitution.

The Nuffer, Benson, and Moritz opinions all neglect the positive effect on the family of the intended issues and demand excessive hardship at the amount of time-energy I commit more or less while they advance the dispositive power of speculation *in lieu* of concrete rationale; it is not authentic *Law of the Case*, but *doctrine in lieu* expressing politically dissociative counter-representational and adversarial Rule 56 summaries; strict Criminal Contempt under color of law and in the course of *read and review.*

They are damaging the soundness, simplicity, and *victory* of later years in Family life with obvious Criminal misconduct of the process, and so drive the State of Utah's dispositive point home against the person who would certainly intuit the difference between a limited overstep by a state administrator and a deliberative omission by a State congressman. It is the most direct *legal malice* to premeditate direct political harm of any kind on a basis which lauds the rejection of United States Constitution and Laws.

Signed

Carlos Velasquez, Appellant

Civil Bureaucratic Federalist

Date: 9.1.21