

21-5660 ORIGINAL  
No. \_\_\_\_\_

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

KEVIN MCBRIDE,

Petitioner,

v.

STATE OF FLORIDA,

Respondent,

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On Petition for Writ of Certiorari  
Second District Court of Appeal  
And Florida Supreme Court

**PETITION FOR WRIT OF CERTIORARI**

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## QUESTIONS PRESENTED FOR REVIEW

- I. When fraudulent police reports deceive the lower court into a false conviction, shouldn't the fraud precede the false conviction and be overturned immediately?
- II. Should the Petitioner's conviction be reversed due to suppression of evidence that exonerates not only the Petitioner, but exposes the police misconduct?
- III. When overzealous State Attorneys rigorously convict citizens without the presumption of innocence, charge piling, etc., then what protections do the accused have left?

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## PROCEEDINGS DIRECTLY RELATED TO THIS CASE

All appeals were denied without opinions. The following proceedings are "directly related" to the case before this Court:

- State of Florida v. Kevin McBride, No. 19-CF-003020, 13th Judicial Circuit of Florida. Judgment entered Dec 16, 2019.
- Kevin McBride v. State of Florida, No. 2D19-4825, Second District court of appeals. Judgement entered on Mar 30, 2021. (Appendix A)
- Kevin McBride v. State of Florida, No. SC21-645, Supreme Court of Florida. Judgement entered on May 12<sup>th</sup>, 2021. (Appendix B)
- Kevin McBride v. John Guzina, et al., No. 8:21-cv-00546, Middle District, Tampa. May 28<sup>th</sup>, 2021.

## JURISDICTION

On December 16, 2019, Petitioner, MR. MCBRIDE entered a plea in Hillsborough County, Florida at the 13th Judicial Circuit court of Florida.

December 17, 2019, Mr. McBride was released from incarceration while being held without bond for five (5) months and immediately filed a Notice of Appeal, and a Motion to Withdraw Plea. McBride invokes this Court's jurisdiction under 28 U.S.C. § 1257, having timely filed this petition for a writ of certiorari within ninety days of the Florida Supreme Court's judgment.

## CONSTITUTIONAL PROVISIONS INVOLVED

**First Amendment** – Freedom of speech gives us the right to express themselves without having to worry about government interference.

**Second Amendment** - The right to bear arms.

**Fourth Amendment** – Police, government cannot arrest a person or search their property unless there is “probable cause” that a crime has been committed.

**Fifth Amendment** – Requires “Due Process of Law” be part of any proceeding that denies a citizen “life, liberty or property”.

**Sixth Amendment** – Rights of Accused in Criminal prosecutions, Judicial Proceedings Before Trial. This presumes that a person is innocent until proven guilty.

**Eighth Amendment** – Prohibits cruel and unusual punishments inflicted.

**Ninth Amendment** - These include the presumption of innocence in criminal cases, the right to travel within the country and the right to privacy.

**Fourteenth Amendment** – Rights Guaranteed, Privileges, and immunities of citizenship, Due Process, and Equal Protection.

## INTRODUCTION

This Petitioner went to a PINK concert and now has a three (3) Felony False Conviction from the State of Florida.

To summarize this case in a few words would be a "Modern-Day Lynching". The unconscionable acts by these Defendant(s) are equivalent to those past tragedies of human rights. While lynchings were common one hundred years ago, this Petitioner would've stood no chance of living back then. For when a group of people have a common goal to lynch their opponents in modern times, they use the legal system.

Do you know what's worse than being framed? Being framed for crimes that were never committed. This case started as a police liability cover-up, then turned into a political attack onto the petitioner. Due Process Denied.

When it comes to Supreme cases to hear and rectify an irreparable harm, this case hits all the bullet points of intrigue. Many constitutional rights were violated, and many issues of national importance. The lower court joined hands with police misconduct and treated this petitioner with extreme malice. This is a true, real miscarriage of justice that must be overturned.

This case involves false reporting, perjured testimony, police misconduct, cover-up, negligence, medical billing fraud, suppression of evidence, racial and class discrimination, false media reporting, vindictive prosecution, retaliation, and abuse of office. To give this case a slogan would be to call it the "Judicial Hate Crime Case".

The Defendant(s) brazenly broke federal laws thru their personal hatred for the petitioner, using their positions of power in doing so. This case is extraordinary because it involves fraud of process from local "trusted" government officials who conspired to violate the petitioner.

Leading to damages such as physical injuries, false arrest, false imprisonment, loss of income, friends, family, business associates, reckless indifference, mental anguish, and felony discrimination.

The State of Florida has now labelled and shattered this petitioner's future with a three-felony false conviction when no crimes were committed. Zero.

The Petitioner, Mr. McBride would like to state that he is *pro se* and begs for your leniency in his writing. Trying to understand such a foreign language of law, under these circumstances is extremely difficult, prejudicial, and unfair.

Mr. McBride has been forced to spend years researching and writing to proclaim his 100% innocence in clearing his name. Mr. McBride understands English, and only speaks the truth. Mr. McBride is a natural born realist, conservative, and does not break the 10 Commandments. After going through so many traumatic events in this case, he requests your compassion and forgiveness in his translation.

The petitioner would ask this court to reverse, and remedy the harm done onto the petitioner by the State of Florida. The State Attorneys stepped out of their normal duties of prosecutorial procedure, and due diligence to attack, and then falsely convict Mr. McBride.

In Mr. McBride's opinion, a 3-felony false conviction is worse than getting shot three times. A permanent **Felon** scar that cannot be covered up because of the new digital world we live in. In comparison, if the State had shot Mr. McBride, he could cover those scars up with clothing, patches, or tattoos. Nobody would know he had been shot 3 times. With a felony criminal record, you can never cover it up. Everyone does a Felony check on everything in life nowadays, not to mention all friends, and family banish you. Bank Account, job, living denials, etc. (Appendix C) He can only obtain self-employment gig work because of the unfair defamation. This damage is irremediable, but if they had shot Mr. McBride with a gun and he survived, he can actually use that story and brag about it. Possibly gain sympathy into financial gain, like so many gang rappers had done in the past. Felony convictions have no patches, or band aids to shield it from public view. Many would argue that a felony conviction is essentially a death sentence in modern times.

There has been no adequate remedy on appeal from the final judgement because the conspirators, and perpetrators controlled the entire paper trail. LET'S REPEAT THAT. All the documents were created, fabricated, and manipulated by the attackers. The police, jail, prosecutor, defense attorneys, and Judge all either fabricated the paper trail, or suppressed real evidence. When the ones committing the fraud dictate the facts of the case, the accused have zero chance to exonerate themselves.

This Petitioner was defenseless. This case is exactly why the Constitution was written, and why the criminally accused should have pretrial rights from an unbiased court.

Unfortunately, in today's unfair system, it's presumed guilt by all involved. It's the opposite of what its supposed to be. Not just in this case, but everywhere. Why is it happening? Everyone knows but doesn't seem to want to fix the problem. Prosecutors, PROSECUTORS!!

We have these young, rogue prosecutors running wild around the country with only one goal. Pad their conviction rates regardless of innocence. Most of the conviction errors by prosecutors seem to be these barely out of college females that never want to investigate each case. They are relentless in crushing their opponents.

Females are built on emotion. They love conspiracy theories, hearsay, and character assassinations, while most male prosecutors are looking for concrete evidence. Female prosecutors seem to always have presumed guilt towards Men. In the young prosecutors mind, they now decide cases within seconds, rather than working due diligence. They seem to know the new case because they studied it in college or watched it on TV in the past. Shows like law and order, criminal minds, or Court TV.

Then the most discriminatory, and unconstitutional step happens. Prosecutors then check the Social Media profiles of the accused leading to even more prejudicial bias to convict. Not based on facts of the case but based on their personal hatred for the opponent. It's now a character assassination case. Facts, and evidence are invisible with today's prosecutor. Prosecutors have God-like powers that go unchecked. They have and will continue to convict more innocent victims until this court sends a shock wave message to them.

## STATEMENT OF THE CASE

On March 3<sup>rd</sup>, 2019, Mr. McBride was arrested and charged with one Count, Felony battery on LEO, and one Count, Felony resisting arrest with violence. (R.P.18, Index 6). These charges are disputed because of three factual reasons; No Real Evidence of any crimes. If the real evidence becomes unsuppressed, it will expose the excessive force by police for which is why they covered up. All video/audio evidence buried. They planted witnessed within the department to protect the Blue of silence. Secondly, the initial police report exposes the deception, fraudulent intent, and cover-up by the Tampa Police Department. Lastly, with God as his witness, Mr. McBride did not commit any crimes.

The lead LEO, and 24-year veteran, detective John W. Guzina wrote his Police report in the first person, but then recanted. (Appendix D & E) Just by reading it, the police report is bizarre on its face. It's a complete fabrication from someone who wasn't involved.

Guzina stated, "He was outside the arena during the alleged incident, and that his only involvement was that he drove TPD officer Michael Campani to Tampa General Hospital for treatment." (Guzina, Dep. P 3-7)

Guzina admits to interfering with the investigation by confirming that he drove the officer involved to TPG, which just happens to be the same officer Michael Campani that miraculously got a late injury after the fact. Campani claims an eye injury 10 minutes after the false arrest, and then walks around with an icepack over his eye grinning at Mr. McBride. He's also the same officer that prematurely assaulted Mr. McBride at the concert. Why does Campani need a ride? Why does he need the ER for an eye bump? When fire and rescue were there next to him inside the arena.

Officer Campani did what many officers do in neglect, act first, and think later. Quoting one of the Supreme Court Justices in relation to this situation, similar but in contrast. This officer tackled and arrested Mr. McBride first, then thought later. Back in 2015, Justice Sonia Sotomayor criticized qualified immunity for "sanctioning a 'shoot first, think later' approach to policing."

Later in Guzina's deposition, for which all involved avoided for months upon many requests from the petitioner, he then confirms that he also spoke with the other officer involved about the case. Officer Hazelzet. Petitioner alleges that multiple TPD officers conspired to deprive his civil rights and liberties in violation of 18 U.S.C. § 241, and 18 U.S.C. § 242. Based on the above statement alone, it appears to be perjury number one. (Guzina, Dep. P. 6) The lies and deceptions get much worse and outrageous. All the false statements and inconsistencies were never investigated by anyone involved in Mr. McBride's Criminal Case.

Now to what happened during the concert, there was a fan, Jane Doe standing next to Mr. McBride's who was hitting him with her very large bag. (R. 4-5) Mr. McBride politely gave her the polite, standard look of your invading my personal space. She grinned and then increased the subtle attacks. Instead of confronting her, Mr. McBride respectfully deescalated the situation, and approached the nearest usher and asked to be re-seated. (R. 5) Mr. McBride age 51 at the time is a seasoned concertgoer and has attended well over a thousand shows. Ticket Purchase (Appendix F)

Mr. McBride was informed that there were no other seats available. (R.5) Mr. McBride then returned to his seat only to have the same woman's bodily contact become worse as she was now hitting him with her knee and elbow which appeared to be intentional. (R.5) During this second seating, Mr. McBride counted 37 times where he was touched with this woman's body and/or bag. Upon realizing it was intentional Mr. McBride then immediately left his seat and again approached the same usher asking the usher "Did you see it that time?" (R. 5) The usher replied "yes", and I asked "Can you please get someone to help me? He obliged.

Once the attacker noticed that the petitioner was reporting her, she created a scene, "a Karen Situation" where she then claimed to be the victim. She lied to protect herself and directed the officers onto Mr. McBride. By now Mr. McBride is twenty feet away, avoiding conflict, and standing alone watching the concert. He was simply waiting for assistance, and/or customer service.

The only two officers involved reported to the scene which were (Hazelzet, and Campani). While standing in the walkway behind the soundboard area, and unbeknownst to Mr. McBride at the time, officer Campani was behind him. Officer Hazelzet spoke the only words to Mr. McBride by law enforcement. Angrily, forcibly he said, "You've got to go!" Mr. McBride quickly responds back, "No, I called you guys about that girl at my seat." Then bam! Before Mr. McBride could even finish his sentence with Hazelzet, Officer Campani from behind used a spin and trip maneuver and drove Mr. McBride to the ground.

Officer Campani had not witnessed any crimes, had no probable cause, no detainment, nor Miranda yet he physically grabbed Mr. McBride and slammed him to the floor. Mr. McBride then landed against a fan's chair breaking his eyeglasses into his face. Laying there face down, and stunned, he didn't say a word, or move. Both officers jumped on Mr. McBride, cuffed him quickly, and then he walked peacefully with them to the back of the arena in front of and estimated 17,000 fans.

This initial incident only took 50 seconds. Underlying, facts would be that Mr. McBride was never ejected by staff members. There was no security staff, and/or PINK stage personal security involved because there was no disturbance. Mr. McBride was always avoiding one. "This is vital unsourced material evidence of causation in the false conviction, and the conspiracy in this matter." No probable cause. Security staff was never on the scene because there weren't any problems until the officers arrived. The officers thru neglect, ESCALATED the situation. They planted a security guard the next day as a witness to create probable cause after the fact. It was a phone interview, and he never went on the record, nor did the attorneys try.

During the course of being falsely arrested, Mr. McBride suffered significant cuts and bruises about his face and body. (Appendix G) The wrist injuries are from Officer Sarrasin when they forced Mr. McBride to the ER at Tampa General Hospital. Even though he declined medical treatment, TPD started some form of Medical Fraud coverup process in using the Hospital as a holding facility. Thus, giving them time to fabricate charges onto the Petitioner.

Guzina wrote the CRA report with Campani at his side, but then Hazelzet under oath stated that he wrote it. Guzina was called into fix the officers neglect. The cover-up was so seamless, and without any remorse that Mr. McBride knows in his soul, that they've done this to hundreds of other victims. They use Tampa General Hospital to start the coercion process and gain personal financial windfall for themselves. Billing to Mr. McBride, \$1904.00 for services not rendered. (Appendix H). The Hospital was complicit.

March 14<sup>th</sup>, 2019, the Assistant State Attorney, ASA Prosecuted a case against Mr. McBride with no physical evidence, no motive, no probable cause, no public witnesses, and no detainment. The State relied solely on Tampa Police Department testimony. Hearsay Documentation only. Then the ASA adds a phantom charge, or "Charge Piling." With no basis, the ASA added a third Felony charge of battery on a LEO after the fact. This should be a criminal charge against the ASA. She is trying to send Mr. McBride to jail for Five more additional years without a proper investigation, or reasoning. The ASA's intent was to harm the Petitioner on a personal level, not for any crimes committed. This is a material fact of Prosecutorial Vindictiveness, and conspiracy to falsely convict. List of stolen personal items by Tampa Police Department. (Appendix I)

On April 4<sup>th</sup>, 2019, at arraignment, Mr. McBride's was forced to plead "Not Guilty" because his Public Defender of record refused to file for an evidentiary hearing, and/or motion for dismissal based on no probable cause, and no crimes committed. During this injustice, Mr. McBride had sent several emails to both his attorneys, the State Attorney, and Attorney General proclaiming his innocence. (Appendix J, & K)

On May 16<sup>th</sup>, 2019, relying on personal bias alone, the lower court forced a mental exam onto the Petitioner. With no family history, and with no evidence, or history of mental illness, the lower court Judge gets involved in the personal attacks against McBride. (R. P.16 #34) McBride's Doctor. (Appendix L)

June 17<sup>th</sup>, 2019, Mr. McBride completed that mental exam with a near perfect score of 96 out of 100. (R. P14 Index 57) Doctor Ryan Waggoner states in his findings, "Although a belief about police cover-up's could be delusions for most mental health patients, that doesn't appear to be the case for Mr. McBride". (R. Supp. P119)

June 24<sup>th</sup>, 2019. This date is underlined because it's the date the lower court conspired to violate all of Mr. McBride's pretrial rights. At this competency hearing, the lower court violated the 1<sup>st</sup>, 2<sup>nd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, and 8<sup>th</sup> Amendments. The blatant disregard for Mr. McBride's civil liberties by this court should not be immune from such gross negligence.

Mr. McBride's thoughts walking into this court date were, "finally this nightmare will be over, and the case will be dismissed." This is what a reasonable, and unbiased person would expect. Remember, no crimes with fans were reported or witnessed. These crimes were all manufactured. No fans reported wrongdoings by Mr. McBride, nor could the police convince any fans to perjure.

On June 24<sup>th</sup>, 2019, the opposite happened. Surely the lack of evidence, and the positive mental evaluation would lead to dismissal. Instead, the lower court had another plan for Mr. McBride. The lower court submits a motion to modify bond. Along with illegal home search and seizure, forfeiture of all knives, guns, and ammo. Home monitored confinement, and a travel ban. (R. P15 Index 55) It was like being arrested all over again, but by the lower court.

The ASA retaliated against Mr. McBride because of the many emails sent to her proclaiming his innocence, and frustrations about the cover-up. Mr. McBride was trying to defend himself from this tyranny and was exercising his right to free speech. The Judge agrees with the ASA, Monique M. Scott within minutes, perhaps seconds, and does not allow a defense to this new allegation. The lower court threw Mr. McBride into Red-Flag law without any facts, evidence, or investigation. It was all speculation, and bias based on their prejudice, and racism for Mr. McBride. (T. P.6 14-20) The audio, and transcripts is overwhelming evidence of the unfair discrimination directed towards the Petitioner in this matter.

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The ASA also falsified evidence to sway the court. Which is a material fact, and the evidence confirms. In addition, the Motion was submitted only 18 minutes before court time. (R. P14 Index 65) Mr. McBride was completely blindsided by all involved, and his attorneys were complicit in the wrongdoings. Repeating, the court denied any due process on this motion. No defense allowed. Mr. McBride was not allowed to speak, object, or defend. It was a pre-orchestrated hate crime.

The ASA used emails and/or social media comments from Mr. McBride. (R. 1-7) The gist of these emails and/or social media comments from Mr. McBride were that there has been a "massive police cover-up" and that the recent outburst of violence throughout our country are due to people being "fed up with the Mafia type of attitude inside our government and judicial system." (R. 2) Every time Mr. McBride mentioned that there was a "massive police cover-up", the trial court interrupted him, called it a "court outburst", and threatened him with contempt. (R. 2). Judge Ward was out to get the Petitioner.

Mr. McBride also prefaced an email dated June 2, 2019, with the disclaimer that "This is not a threat, it's not. I'm not, so control your mind to not think that. I'm trying to help you. These types of attacks will continue to rise." (R. 2)

The statements made in the emails and/or social media comments were not threats made by Mr. McBride, but an explanation of why the attacks in the media were happening. However, the ASA and the trial court used Mr. McBride's opinion statements to have him incarcerated pretrial where he was held without bond for five (5) months.

Here's one of the many examples that will be presented, as to the pure hatred this court had towards Mr. McBride. ASA submitted that Motion to revoke bond based on potential threats in McBride's emails. Putting into context, the court decided to grant that Motion based on threats by McBride. Now here's Monique Scott's argument on the record, "While Mr. McBride did not make any direct threats, we should grant the motion based on the totality of his emails." (Supp 2, P177, 15-25) Retaliation for exercising his First Amendment rights? Cruel and Unusual punishment. Mr. McBride was punished for verbally proclaiming his innocence.

Mr. McBride, A 51-year-old male, with zero history of violence, one misdemeanor, no threats, no radical affiliations, not even a tattoo, is now labeled, "a Potential Mass Murderer" by the lower court.

Why was the ASA attacking Mr. McBride? This petitioner alleges the ultimate conclusion is that she either conspired to protect the financial interest of the City of Tampa, and/or she was acting on her own accord thru personal bias. Via Gender racism, and/or political discrimination.

A trial date was set for August 26<sup>th</sup>, 2019. Mr. McBride then reported directly to Hillsborough County Jail to get his Ankle Monitor, but the Jail could not serve a Pinellas County residence. They then made Mr. McBride attend court three (3) consecutive dates and had always complied with the lower courts egregious demands.

Court date on June 26<sup>th</sup>, 2019, a Travel Ban was ordered, and this is circumstantial evidence in proving both conspiracy, and racial bias. 9<sup>th</sup> Amendment Violation. The lower court Judge denied Mr. McBride from traveling to California to see his ailing father for which is now deceased, and he passed away believing that his son was a FELON. The prejudicial, biased, and impartial court now wants full control over Mr. McBride's liberties and freedoms. Mr. McBride's father had just lost his wife, and wasn't doing well emotionally, or health wise. Judge Laura E. Ward denies Mr. McBride from seeing his father on his final days on the record. (The Audio evidence is overwhelming proof of hatred from Judge, Laura E. Ward, 6/26/19).

After expressing concerns to his attorneys with no response, or actions from them, and now realizing that he was going to be convicted of these crimes regardless of innocence flew to Washington, D.C. on July 1<sup>st</sup>, 2019. Emails sent to Attorneys (Appendix M, N, P) Mr. McBride wanted to report the Constitutional violations directly to Congress, DOJ, and other advocacy groups. He was also trying to seek protection from the 13<sup>th</sup> Judicial Circuit Court.

While in DC, the ASA investigator announced a surprise court date of July 2<sup>nd</sup>, 2019. Mr. McBride missed that court date and was then arrested for failure to appear on July 12<sup>th</sup>, 2019, by 15 US Marshalls and was sent to an Arlington County Jail. While wrongfully incarcerated there, the lower court towed his car away in revoking his bond.

Please imagine the mindset within this three-week period if you were walking in Mr. McBride's shoes. On June 24<sup>th</sup>, you were giddy in thinking you were going to be exonerated, to by

July 12<sup>th</sup>, all your basic freedoms will be revoked. You get labelled a "mass murderer", jailed in a very dangerous city, and just for good measure, they also take your car. All based on false pretenses, bias, and Fraud.

Sept 17<sup>th</sup>, 2019- A local Arlington, VA. Judge was about to release Mr. McBride from jail because Tampa missed the 10-day extradition deadline. Signed August 26<sup>th</sup>, 2019. (Appendix Q) But the ASA last minute sent an email to the Commonwealth of Virginia to not release Mr. McBride. This email was read out loud in open court to intentionally defame, slander, and sway the court. The commonwealth reads before the judge directly from her cellphone, "He's threatened to blow up buildings in downtown Tampa."

This should be a criminal crime against prosecutors. The ASA doubles down and continues its character assassinations of Mr. McBride. The lower court was consistent with their many examples of discrimination. Now they've labelled Mr. McBride a, "Mass Murderer" in a different state. The Virginia judge wanted to release Mr. McBride but refused because of the last second hearsay email read on the record.

Mr. McBride was then extradited back to Tampa in late September 2019, for which the lower court Judge interfered with Mr. McBride's bond hearing. She called and ordered the bond Judge to offer "No Bond for McBride!" Eighth Amendment violation. Leaving him in jail, and then she stalled out his trial until Christmas time. The first Judge, Laura E. Ward later recused herself on Dec 3<sup>rd</sup>, 2019.

Then after multiple court dates, coercion, unethical legal tactics by the lower court, Mr. McBride agreed to a plea bargain on Dec 16<sup>th</sup>, 2019. The emotional abuse inflicted from the lower court was overwhelming. Broken, frustrated, and under duress to free himself, Mr. McBride pled out to gain his freedom. Immediately, he filed an appeal and a withdraw of plea and all have been denied without opinions. (Supp. P3 Index 216) Mr. McBride is free and has completed all terms and conditions of his probation.

## REASONS FOR GRANTING THE PETITION

The reasons which Mr. McBride has listed as a basis for this court to grant certiorari are all intertwined when it comes to our criminal justice system ranging from police officers, State Attorneys, and courts. The reasons the system is broken is no discipline towards its violators. The violators use convictions as tool for self-political, and financial gain. The newfound attitude within the system is convictions is the career golden tickets. Politically profitable. They conspire to secure convictions and protect their own resumes to move up the career chain. Right from wrong simply doesn't exist anymore.

One cannot pick up a newspaper or turn on the news without hearing about allegations of police misconduct some of which has resulted in criminal prosecution of law enforcement officers. Not only has there been significant discourse by members of the public for the necessity of police reform, many states and/or local jurisdictions have passed laws requiring new procedures and training for law enforcement officers.

However, the measures that are needed for police reform stop short of what is also required for reforming our criminal system, which includes these issues of accountability.

All issues are related in the sense that each issue affects a certain class of individuals in our society and are *not* only at issue with the Mr. McBride. A close look at the listed issues will define the hostile and oppressive environment not only in Hillsborough County, Florida but elsewhere in our country where honest citizens are held hostage – so to speak – to the criminal justice system.

The class of individuals who are impacted by the questions presented in this petition are not criminals *per se*, but instead are law abiding citizens who believe in their Constitutional right of unfettered access to our courts of justice. However, there are prosecutors and judicial officers including clerks who treat this class of individuals as if they are criminals.

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I. When fraudulent police reports deceive the lower court into a false conviction, shouldn't the fraud precede the false conviction and be overturned immediately?

Mr. McBride had to endure fabricated and manipulated evidence, suppressed evidence, prosecutorial misconduct, coercion, misrepresentation, three Judges (3), and after nearly six months of wrongful imprisonment. He was forced to take a plea offer to FREE himself. Mr. McBride request this court to overturn this false conviction due to fraud by police "Evidence that is illegally obtained by the state may not be used against a defendant in court." *Mapp v. Ohio*, (1961).

The lower court's decision conflicts with the truth, Constitutional rights, and previous decisions. In *Mapp*, the court overturned her conviction, and extended the Constitutional rule to apply to the states and their subdivisions.

Because the Supreme Court has held prosecutorial vindictiveness to constitute a violation of a defendant's right of due process, where a defendant succeeds on a claim of vindictiveness, his or her conviction will ordinarily be set aside. This remedy controls even where the conviction "was entered pursuant to a counseled plea of guilty. *Blackledge v. Perry*, 417 U.S 21 (1974). The conviction is invalid, it's not a legal binding contract, because it's contract was originated on fraud. Which means all contracts, documents, and agreements are null and void. The initial police report is a fraudulent, perjured document, which precedes any contracts thereafter. "Fraud violates everything, and its judgement equally with a contract." *United States v. Throckmorton* 98 U.S. 61 (1878).

The illegal judgment against Mr. McBride should be rendered void when intentional deprivation of fundamental Constitutional rights to due process are in Violation. "The presence of malice and the intention to deprive a person of his civil rights is wholly incompatible with the judicial function." *Pierson v. Ray*, 386 U.S. 547, (1967) In addition, any ruling that involves violation of due process of law under the Fifth, Sixth, Amendments is also a void judgment.

“Police officer's fabrication and forwarding to prosecutors of known false evidence works an unacceptable corruption of the truth-seeking function of the trial process.” *Black v. Montgomery County*, 835 F.3d 358 (3d Cir. 2016).

“[T]he government may not structure its system so as to coerce a guilty plea.” *United States v. Jackson*, 390 U.S. 570 (1968).

Why did this false conviction happen? Fraud by the police to start. They simply wanted to protect one of their fellow officers from police misconduct charges, and/or a possible civil claim payout. One of the most recent Supreme Court decisions in *Kelly v. United States*, 590 U.S. \_\_\_ (2020) related to fraud, retaliation, and an overturned conviction. Mr. McBride's case relates because he was the victim of fraud, retaliation, but looking for his conviction to be corrected. The best argument from this case is contrary to *Kelly*, Mr. McBride committed no crimes, nor were there victims, or harm done. In *Kelly*, corruption, and shady business practices were involved, and yet the conviction was still overturned unanimously.

“Our procedure has been always haunted by the ghost of the innocent man convicted. It is an unreal dream.” Judge Learned Hand, *United States v. Garrison*, 291 F. 646, 649 (1923). “Nearly a century after Judge Hand dismissed it as an impossibility, we know that wrongful convictions are not “Ghost(s)” at all. Movies, Podcasts, and books all show that our criminal justice system can lead to the unjust incarceration of an innocent person.” Wrongful Convictions, Ames Grawert, Brennan Center for Justice, (2018).

As an admission of guilt, the City of Tampa pays off the Medical Billing fraud cover-up as errors by other outside doctors. It was an Emergency Room Billing. Tampa General Hospital bill. Zero Balance on June 28<sup>th</sup>, 2019. (Appendix R)

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## II. Should the Petitioner's conviction be reversed due to suppression of evidence that exonerates not only the Petitioner, but exposes the police misconduct?

When an ASA signs an "Information" which charges an individual with an alleged commission of a crime in Florida, Florida Rule of Criminal Procedure 3.140 (g) requires the ASA sign an information under oath stating that he/she has good faith in instituting the prosecution and certifying that he/she received testimony under oath from material witnesses.

Mr. McBride suggests that it is time for this Court to reinforce that we as citizens of the United States are not only supposed to have a fair justice system but are protected from lurking prosecutors. This ASA suppressed evidence, changed evidence in opposite of the facts. Two examples would be that the ASA changed the discovery documents to list Mr. McBride was not injured by the police, and she also changed from no leg restraints to leg restraints. She did this to protect the Police from civil liability, and to gain support for the fabricated resisting arrest charge.

The ASA intentionally added false Class A witnesses to Discovery knowing they were not a party to any incident. Four of the witnesses admittedly were outside the Arena. This is an overwhelming illegal, unfair, coercion tactic. It misleads all the readers of the report into a slam-dunk presumption of guilt. Rather than an elaborate frame job by the State Attorney.

*"When falsified evidence is used as a basis to initiate the prosecution of a defendant, or is used to convict him, the defendant has been injured regardless of whether the totality of the evidence, excluding the fabricated evidence, would have given the state actor a probable cause defence in a malicious prosecution action that a defendant later brought against him."* *Halsey v. Pfeiffer*, 750 F.3d 273 (3d Cir. 2014).

"Depending on the nature of the prosecutor's misconduct, the prejudice requirement may be easily satisfied. If the prosecutor knowingly presents perjured testimony, the conviction must be set aside if there is any reasonable likelihood that the false testimony could have affected the judgment of the jury." *United States v. Agurs*, 427 U.S. (1976).

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### III. When overzealous State Attorneys rigorously convict citizens without the presumption of innocence, charge piling, etc., then what protections do the accused have left?

"The prosecutor has more control over life, liberty, and reputation than any other person in America. His discretion is tremendous. He can have citizens investigated and, if he is that kind of person, he can have this done to the tune of public statements and veiled or unveiled intimations." Justice, Robert H. Jackson, 24 J. Am. Jud. Soc'y 18 (1940), 31 J. Crim. L. 3 (1940).

Mr. McBride knew on his first phone call with his attorneys that he was not going to get adequate or effective Assistance of Counsel. His attorneys were speaking to him as if they were the Prosecutors on the case. While there are many reasons to overturn this false conviction, misrepresentation by all involved prejudiced the lower court.

On March 30<sup>th</sup>, 2019, the very first contact with his public defender. Mr. McBride's attorney, Ashley Hodge told him that, "this case is going to trial, and it will be your character versus the police officers." As Mr. McBride was proclaiming his innocence to her, and asking her to Motion for dismissal, Mrs. Hodge would interrupt Mr. McBride and spoke down to Mr. McBride in a Prosecutors tone. She never wanted to hear what happened. She only read the police report and searched Mr. McBride on the web. She had presumed guilt with extra added bias, and prejudice towards Mr. McBride. Proof of bias, to the conspiracy on June 24<sup>th</sup>, 2019. Mrs. Hodge tells the ASA that Mr. McBride is going out of town. (Appendix S)

The lower court's decision seems to conflict with a decision of the Supreme Court. *Gideon v. Wainwright*, 372 U.S. 335 (1963) and *McMann v. Richardson*, 397 U.S. 7509 (1970).

In *Gideon* the Court unanimously held that in criminal cases states are required under the Sixth Amendment of the U.S. Constitution to provide an attorney to defendants who are unable to afford their own attorneys. Gideon was convicted in Bay County, Florida Without counsel. The Supreme Court reversed his conviction. In *McMann v. Richardson*, 397 U.S. 759, 771 n.14 (1970) the Supreme Court ruled, "If the right to counsel guaranteed by the Constitution is to serve its purpose, defendants cannot be left to the mercies of incompetent counsel. . ." 397 U.S. at 771.

Due process denied by all the lawyers involved. No investigation, no defense, no attempt to gather evidence from Tampa Police Department, The Amalie Arena, or Tampa General Hospital. Misfeasance, nonfeasance, and more.

Yes "Cancel Culture" hit our courtrooms on June 24<sup>th</sup>, 2019, at the 13<sup>th</sup> Judicial Circuit Court of Florida, three (3) ladies conspired to punish Mr. McBride for his freedom of speech, and expression. Mr. McBride also alleges these attacks were racially and politically motivated (Gender Racism). Without any regard for Mr. McBride's protected Pretrial Constitutional rights, the lower court violated those protections because of Mr. McBride's emails, media, and social media persona.

Resolving conflicts of law when it comes to immunity protections from first amendment violations in relation to this case. When a court official acts beyond their bounds of expertise, they should not be protected from criminal and/or civil charges. In this case, these Prosecutors are professionals at law, and have very busy caseloads, they simply do not have any expertise to predict future crimes by a litigant. They're job titles say "Lawyer", not "Expert Crime Preventer" at the FBI. "Convicting a defendant of a non-speech related offense based on speech is permissible only if the speech created a clear and present danger that the crime would be attempted or perpetrated." *Dennis v. United States*, 341 U.S. 494 (1951).

This court needs to immediately address and correct a holding precedent. *Heck v. Humphrey*, 512 U.S. 477 (1994). An individual bringing a claim under 42 U.S.C. 1983 must base the pursuit of damages for an unconstitutional conviction on the reversal or invalidation of the conviction. His civil rights case was dismissed since it is essentially challenged the validity of his conviction. This holding should not be an across the board holding because the lower courts are joining hands with Police Misconduct. *Heck* gives a license to Prosecutors to use all their legal coercion tactics to convict illegally. *Heck* needs to be banished or adjusted properly. *Heck* is a license for corruption. It does not give an accurate read on what's really happening in the lower courts.

The lower courts currently have carte blanche to cause irrevocable harm onto others. Racism should be enforced equally, and nobody is above the law. Letter from appeals attorney for which never spoke with Mr. McBride about the case. (Appendix T)

Mr. McBride is requesting a clear ruling and remedy to prevent this from happening to others. A correction, and enforcement is desperately needed. The obvious remedy is stripping all immunity protections for Government Officials, but a more realistic solution as suggested by Mr. McBride moving forward.

Rather than relying on pure opinion, and speculations without any factual content. Require the lower courts to have an outside professional decide if the litigant is a danger to society. Homeland security, FBI profilers, and other experts would have authority in this realm. As it is, these experts have a tough time predicting egregious crimes, and they certainly wouldn't jail someone based on emails, or a Social Media Post. Repeating one of my earlier points, women love wild conspiracy theories, and hearsay evidence. Men are looking for factual evidence.

In the instant matter as stated above, On June 24, 2021, the ASA filed a Motion to Modify Conditions of Pretrial Release. (R. 1-2) As the basis modifying pretrial release, the ASA used emails and/or social media comments from Mr. McBride (R. 1-7) which expressed that there has been a "massive police cover-up" and that the recent outburst of violence throughout our country are due to people being "fed up with the Mafia type of attitude inside our government and judicial system." (R. 2) Every time Mr. McBride mentioned that there was a "massive police cover-up", the trial court interrupted him, called it a "court outburst", and threatened him with contempt. (R. 2) The ASA and the trial court used Mr. McBride's constitutionally protect right to free speech to punish him and modify the conditions of his pretrial release to his detriment.

As this Court stated in *Perry v. Sindermann*, 408 U.S. 593, 597 (1972). "It may not deny a benefit to a person on a basis that infringes his constitutionally protected interests— especially, his interest in freedom of speech. For if the government could deny a benefit to a person because of his constitutionally protected speech or associations, his exercise of those freedoms would in effect be penalized and inhibited. This would allow the government to "produce a result which [it] could not command directly." *Speiser v. Randall*, 357 U. S. 513, 526. Such interference with constitutional rights is impermissible."

The impermissible interference with Mr. McBride's constitutional rights caused Mr. McBride to be incarcerated for five (5) months and in order to be released from incarceration, Mr. McBride found it necessary to enter a plea to three (3) criminal charges of which Mr. McBride had steadfastly maintained his innocence. This is evidenced by the fact uncontested facts that on December 16, 2019, Mr. McBride entered a plea and then on December 17, 2019, he was released from incarceration. Following which Mr. McBride immediately filed a Notice of Appeal and a Motion to Withdraw Plea.

"A due process criminal trial means a trial in a court, with an independent judge lawfully selected, a jury, a defendant's lawyer if the defendant wants one, a court with power to issue compulsory process for witnesses, and with all the other guarantees provided by the Constitution and valid laws passed pursuant to it." See, e. g., *Chambers v. Florida*, 309 U. S. 227, 235-237, 240-241 (1940); *Toth v. Quarles*, 350 U. S. 11 (1955). *North Carolina v. Pearce*, 395 U.S. 711, 744 (1969).

In the instant matter, it was made apparent to Mr. McBride that he could not have a due process trial, he did not have an independent Judge, nor did he have a prosecutor who was willing to see that justice was done as opposed to making Mr. McBride a notch on her prosecutorial belt.

"With Any judge who acts above the law has no jurisdiction. Constitution Supreme Clause Article VI, Clause 2 of the Constitution (This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; shall be the supreme Law of the Land." "The Constitution does not make conspiracy a civil [or a judicial] right", *Dennis v. United States*, 341 U.S. 494 (1951) because a "conspiracy is a partnership in criminal process." *United States v. Kissel*, 218 U.S. 601, 31 S. Ct. 124 (1910).

*"A Judge Should Perform the Duties of the Office Fairly, Impartially, and Diligently the duties of judicial office take precedence over all other activities. The judge should perform those duties with respect for others, and should not engage in behavior that is harassing, abusive, prejudiced, or biased."* Vol. 2: Ethics and Judicial Conduct. Pt A. Code of conduct for United States Judges, (Canon 3).

The inability of citizens of our nation to seek redress for wrongs against judicial officers, prosecutors, district attorneys and other government officials creates the appearance that these "officials" have been afforded their own "aristocratic" status and can do as they please as long as they can establish that "the official seeking absolute immunity bears the burden of showing that such immunity is justified for the function in question." *Burns v. Reed*, 500 U. S. (1991), *Antoine v. Byers & Anderson, Inc.*, 508 U. S. 429, 432, (1993) Just what does the word "justified" mean? This makes it way too simple for judicial officers, prosecutors, district attorneys and other government officials to allegedly do justice while stepping all over a class of individuals who try to assert their legal rights.

Addressing qualified immunity, or immunity protections under this argument is of vital, and urgent importance. It's the main issue of why the Criminal Justice System is an epic failure. The primary reason the system is broken is because of the rogue employees. Immunity protections need to be removed. Last year, nearly 500 civil rights organizations called on Congress to *end* the defense, not reform it, and certainly no insert it into Section 1983. Civil Rights Coalition letter to Speaker Pelosi et al, (June 1, 2020)

Mr. McBride respectfully requests that this Court provide him with equal justice under the law. In cases of actual innocence and a false conviction has occurred, wouldn't be appropriate that prosecutors be subject to disbarment, and/or hate crimes violations? Otherwise, prosecutors are free to continue locking up citizens they dislike.

Here we have a case of actual innocence, and a lower court who hated the Petitioner. There were no victims. No crimes. No harm done onto the public, nor risk to the public. Just a biased, prejudicial court who despised this petitioner.

Another underlying fact is that everybody knows that 80% of all Battery on a LEO charges are fabricated. Yes, fake charges. This is how financially incentivized our law enforcement have become. Up charging our citizens like waiters and camouflaging their neglect at the same time.

## CONCLUSION

Mr. McBride is not only asking this highest court to overturn his false conviction but set precedent for so many others to get Vindication. So many ongoing issues of failure in this case that need to be remedied nationally. Please send a clear message about qualified immunity protections so the country knows that it's still "We the People", rather than, "We the Lawyers". Nobody is above the law, and all Government employees work for the people. This totalitarian dictatorship attitude within the courts has got to stop now. The Department of Justice is not going to police their own, nor will Congress. What kind of country do we live in if the courts don't follow, or enforce Constitutional Law?

With over 200,000 Innocent victims in jail due to vindictive prosecution, is now the time to outlaw coercive plea-bargaining? Please address these issues: Coercion to plea, it's happening in so many cases around the country and completely unfair to the accused. Prosecutors use their legal tricks and jail time leverage to force guilty pleas onto the innocent.

Next, when a prosecutor adds a baseless, non-verified additional crime send a clear message. The prosecutor is intentionally, and willfully trying to harm the victim.

Finally, can we please address gender racism in the courts, and let females know that discrimination is not a one-way street? They've been destroying men in the courts ever since the OJ trial. Ever since that injustice, females within the court systems have been inhumanely crushing men. More importantly, this societal movement is destroying men in all aspects of life and breaking down the happiness of our society. The dehumanizing, and defamation of man is everywhere now. Men have feelings also, it hurts deeply inside when attacked verbally by women, or in Mr. McBride's case legally. Men are not allowed to speak about it. It's taboo. It creates deep wounds within that go unaddressed leading to mental issues, and depression. Men are no longer respected and are looked down upon in society, and especially in the courts. It's unfair racism.

The Constitution provides in the Fifth Amendment that as to the federal government no one shall be "deprived of life, liberty or property without due process of law" and then the Fourteenth Amendment, as ratified uses the same eleven words to describe a legal obligation of all the states in our Republic.

The lower courts stole this petitioners life away without warrant or cause. A political hitjob.

With the irreparable harm done onto Mr. McBride, and no adequate remedy by appeal, and having exhausted all possible remedies, the petition's conviction should be overturned, and be granted a fair financial remedy to correct the harm and damage from the error.

The certiorari should be granted.

Respectfully Submitted,

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