No. 21-611

IN THE
SUPREME COURT OF THE UNITED STATES

GERTRUDE CORETTA FENNELL HAMILTON,
Petitioner,

v.

UNITED STATES OF AMERICA, D.O.J.;
CHARLESTON S.C. DISTRICT COURT;
STATE OF SOUTH CAROLINA,
Respondents.

On Petition for Writ of Certiorari To The United States Court of Appeals For The Fourth Circuit

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PETITION FOR REHEARING

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PETITION FOR REHEARING

Pursuant to Rule 44 of this Court, Petitioners, hereby respectfully petitions for rehearing of this case before a full Nine-Member Court. This Writ of Certiorari was due on or before October 25, 2021 and filed timely. On January 10, 2022 the Court denied the petition. Rule 44 allows 25 days for rehearing on the merits.

REASONS FOR GRANTING THE PETITION

Fraud on this Supreme Court of the United States "SCOTUS" by Attorneys and government officials intentionally ignoring the "Rule of Law," because of IMMUNITY. Suppression of this doctrine is being taken advantage of by unjust attorneys, Magistrate Judges, court employees and mean supremacists type government employees. Petitioner must not only show that an officer or official violated their constitutional right, but also that the right has been "clearly established" in a previous ruling.

Prosecuting unjust attorneys in most cases don't happen at all, because their comrades protect them from litigation, because they misuse immunity. Evidence will show the abrasion nerves of three attorneys (Susanna H. Murray, Catherine B. Templeton and Eric C. Schweitzer) lied to The Supreme Court of the United States of America "SCOTUS" for power and money in Writ of Certiorari, *Hamilton v. Dayco Products, LLC,* S. Ct. 2010, are in (Appx. X pgs. 112 to 122) on "Brief of Opposition." Petitioners' prayer is at this point you say "enough is enough" the genuine material facts

are before this court again, where the Fraud upon the Court took place with transparency for accountability from your own records against this Court. **It's time for the SCOTUS to take up the larger question of whether fraudulent acts on the SCOTUS is still protected with Qualified or Absolute Immunity with a waiver of Sovereign Immunity?** Evidence shows these attorneys lied to this SCOTUS and magistrates and judges ignored the facts; this Court is either part of the solution or part of the problem for many injustices. Is the SCOTUS saying to the country that Justice does not matter when government officials or attorneys intentional deceive the SCOTUS in a brief? Yes, in your face genuine material facts how immunity caused disrespect to the SCOTUS. It seems as if, YOU tell police officers that they can shoot first and think later; it tells the public that palpably unreasonable conduct will go unpunished. The "Rule of Law" can't work when you allow people to be "above the law." Now the SCOTUS tells the courts we taxpayers pay to insure justice for all, it's only a white lie against a black pro se person.

However, this is also a brazen attack on democracy of our "Rule of law" when SCOTUS sit idly by ignoring intentional misconduct by officials who willfully violated trust and betrays the oath to protect and serve. The Qualified/Sovereign immunity doctrines for law enforcement officers and absolute shield for judges contain a very terrible bad side of encouraging injustice. This court now support and allow attorneys to cross the line, with blessings of the Court, because the unjust enemy know the chances of a Pro Se getting justice is slim to none. Ethical honest attorneys are afraid to take a case with clear

fact-based evidence exhibiting a Magister Judge violated the law and none have the guts or nerves to go against a judge in the circuit where they work, because of being afraid of retaliation.

The SCOTUS also put good attorneys in a predicament of being controlled by their comrades for blowing the whistle or being a snitch on illegal acts. Yes, several bills on police accountability that should help build trust between communities of color and law enforcement passed, but it is not enough. The shield of the doctrine of qualified immunity or sovereign immunity is the root cause of 'life threatening disasters' for many young black men, their blood is on the hands of our SCOTUS. Financial recovery is needed under 42 U.S.C. § 1983 with strict liability, authorizing recovery against any person intentionally acting unjust under color of law who violates the Constitution or federal laws. The Supreme Court created immunity as a defense, but it's being used wrongly too much. Some government officials—such as judges for their judicial acts, prosecutors for their prosecutorial acts, and legislators for their legislative acts—have absolute immunity to suits for money damages. Looks like government officials who do not have absolute immunity have and use qualified immunity as a sword instead of a shield. Too many foxes are watching the hen house, causing illegal disaster with injustices in the court house. Those government officials and attorneys whom knowingly violate the law never get punished, because the SCOTUS makes it difficult for victims of constitutional violations to recover for their injuries. Heads Respondents win, tails Petitioner lose, because justice is rigged against JUSTICE for the unjust. It's time to respect the facts

and trace or follow the audit trail where evidence lead and take appropriate action against whom the facts confirms violated the "Rule of Law."

The many cases listed in the Appendix for this petition proves that attorneys and court officers violated the law and should be held liable, they have received "fair warning" that their conduct is unconstitutional. If lying to the SCOTUS is not unlawful when qualified immunity is based on the court's interpretation of a statute, Section 1983, is worthless for justice, because of YOU. Petitioner prays, false intentional deceitfulness by attorneys during case review or investigation of that opposition brief in (Appx. X pgs. 112 to 122 for Case No. 10-115 August 23, 2010) to The SCOTUS is obviously, unlawful and clearly established in Rule of Law. Petitioner reference *United States v. Lanier* and *Hope v. Pelzer* because they appear to be rare cases where the SCOTUS noted that there does not have to be a prior decision on point to overcome qualified immunity. Prayerfully this petition will cause a new precedent to be established on absolute and qualified immunity in order to establish liability beyond debate for "Fraud on the Court" by government officials and attorneys.

The courts overlooked or misapprehended vital facts; transparency from court- to- court with facts will confirm the Fourth Circuit Court of Appeals erred when this court see the "Fraud on the Courts" that took place by comparing the Opinions in *Hamilton v. United States of America –DOJ, 20-2189* to *Hamilton v. Dayco Products and Mark IV Industries, Inc., et al, 09-1999* verses *Hamilton v. Murray,* 15-2406, and willful lies by counsel to this SCOTUS in Case No.10-115 (2010). Fraud on the

courts with violations to Fed. R. C. P. 60(b)(3), and (d) with Extrinsic Fraud. The (Attorneys for Respondents) in Case No. 10-115 (2010), (Appx. X pgs. 112 to 122) submitted a BRIEF IN OPPOSITION to this Supreme Court of the United States dated August 23, 2010. *Hamilton v. Dayco Products, LLC,* S. Ct. 2010. A copy of the brief was also submitted in Petitioner's complaint, *Hamilton v. Murray*, No. 15-2085-PMD-MGB (ECF No. 1-2 pgs. 89-99) filed 05/21/15 with a copy of OSHA's form 300A @ ECF No. 1-2 pgs. 87 & 88 and a copy of a letter from Occupational Safety Health Administration "OSHA" Compliance Manger dated July 15, 2009.

Multiple false statements were in their brief to deceive the court, hide a "lost time" accident from "OSHA" and to hide the employer: Mark IV Industries, Inc. and Dayco Products, LLC / ("Mark IV") multiple adverse actions during the Chapter 11, bankruptcy STAY to deceive the Government for approval of Chapter 11, *Hamilton v. In re Mark IV Industries, Inc., et al, 09-12795* filed in the Southern District of New York. These Attorneys also received legal fees for their lying service; committing Fraud on the Courts. It's time for a fact check. See (Appx. X pgs.112 to 122) transparency was available; however, immunity, inherited power / authority, or revengeful-racism discrimination with "USA" involvement in civil conspiracy ruled. Also, negligence and fraudulent misconduct; caused multiple miscarriages to justice by those sworn to uphold justice, but committed injustices.

Whereas, SCOTUS has the opportunity to correct an injustice that violated the dignity and integrity of this court that "fraud upon the court" took place by

officers of the courts in SCOTUS. Extrinsic fraud external to the matter reviewed by the SC District Court in Petitioner's original lawsuit, but to deprive Petitioner from being heard; comrades continued to skip, cherry pick and or ignore the facts. The 14th Amendment provides no State may "deprive any liberty, or property, without due process of law." This Pro Se did not receive due process. The docket confirms (Appx. II @ pgs. 207-to-208 from Charleston, SC District Court) shows ECF #97 filed 08/13/2009 to ECF #99 filed 08/31/2009 is less than 30 days. Under 11 U.S.C. § 108(c) as provided in section 524 of this title, *"if applicable non-bankruptcy law... or (2) 30 days after notice of the termination or expiration of the stay under section 362, 922, 1201, or 1301 of this title, ... with respect to such claim."* Therefore, 30 days to appeal in the Charleston SC District Court with Order #352 (Appx. DD pg. 142-144 dated July 17, 2009). (ECF #96 filed 08/11/2009 Appx. II @ pg. 207) MOTION attachment for reconsideration from the bankruptcy court at Exhibit 1~Bankruptcy Court Motion/Order.

When appealing Fed. R. App. P. 4(a)(4)(A) does not contain a 10-day time limit, neither does Fed. R. C. P. 60(b). See, 4th Circuit (Appx. BB Case No. 09-1999, *Id.* @ pg. 138): "*As a preliminary matter, Hamilton's appeal is timely only as to the denial of her motion for reconsideration, which motion properly is construed pursuant to Fed. R. Civ. P. 60(b).*" They believed the court employee's without fact checking the process, Court Dockets should be verified. See, (Appx. X pg. 115 at last ¶) "*Petitioner asks the Court...by failing to apply de novo review...findings.*" And (Appx. X pg. 117, 2nd ¶ "*In Question...district court denied her motion for*

reconsideration without reason and seems to take issue with the Order lifting the bankruptcy stay." Please *see* (Appx. X pg. 118) copy of Writ of Cert., Case No.10-115 (2010) @ Brief of Opposition, filed AUG 23, 2010: "*It is unclear what issue Petitioner takes with the Bankruptcy Stay in Question Presented No 5 because nothing related to the stay or its removal has been appealed or even mentioned by Petitioner until this Petition.*" Now objective evidence proving this is a lie: *see*, Bankruptcy ECF #352 (Appx. DD pgs. 142 -144); lifting the STAY to appeal in S.C. District Court signed July 17, 2009, and ECF #794 in (Appx. Y pgs. 123 -125 dated June 9, 2010) second lift, so Petitioner could now Appeal in "SCOTUS."

Orders directly related to the stay before (Appx. X, Case No. 10-115, August 23, 2010 pg. 122). Writ of Certiorari; Fraud upon the Court by three Attorney's. See (Appx. X pgs. 112-to-122); question 5 is on pgs. 117 & 118. Please *see* Writ of Cert., Case No.10-115 (2010) @ Brief of Opposition, filed AUG 23, 2010, (Appx. X pg.117 at footnote no. 18): "*The fact at issue for Petitioner was the date the Magistrate Judge recited...Petitioner takes issue with the typo...that puts her Social Security meeting and her termination on June 26 instead of June 29. Doc Nos. 96 and 96-3, Mot. to Reconsider.*" Wow, these attorneys used "96 and 96-3" both document transparency will show Petitioner did not file with Social Security until after she was terminated; "96-3" was a letter from Social Security; as evidence June 29, 2006 was the file date for Social Security proving (Magistrate Judge Robert S. Carr) falsified the date wrongfully intentional using 3 days prior or earlier than job termination. (Appx. HH pg. 178 with "June 26, 2006)." No prior

Social Security-SSDI filing to justify recommending Judicial Estoppel for dismissal.

Petitioner's employer "Mark IV" filed Chapter 11 in Southern District of New York "SDNY" 04/30/2009 at 5:03-PM; before Summary Judgment was filed in Charleston South Carolina District Court on any of *Hamilton v. Dayco Prods., LLC*, 07-2782 claims (Appx. II pg. 206 @ ECF #94 confirms 05/21/2009). Also, before the counterclaim dismissal ECF #92, 05/21/2009 without an order for authority to issue amended summary judgment (ECF #95); (Appx. GG pg. 152 @ footnote) proved no dismissal authority in ORDER #82.

Fraud upon the Court, by the court with Absolute Immunity is dangerous to justice. Attorneys can use employees with immunity from within the court for an "Inside Job" to control the outcome of claims. The fox watched the hen house or court house. The "USA" supervision or management team assumed too much, without appropriate checks and balance of who followed the policies or standards to ensure justice, no kind of reliable auditing system in place. Let the facts with "Rule of Law" control decisions for all.

Plus, no ORDER or evidential hearing with a judge took place concerning dismissal. See (Appx. EE for ECF #95 pgs. 145 -146 by Clerk). This was an "inside job" against Petitioner, "as to the denial of her motion for reconsideration, *which motion properly is construed pursuant to Fed. R. Civ. P. 60(b). See Fed. R. App. P. 4(a)(4)(A); see generally Dove v. CODESCO, 569 F.2d 807, 809 (4th Cir. 1978). As to the district court's denial of that motion, we find no abuse of discretion."* It's very hard to find

evidence when no one looks at facts because of immunity.

The Fourth Circuit in Case 15-2406 Opinion appears to be about absolute immunity being above the law or above Pro Se litigants' legal rights. *See,* (Appx. P pgs. 78-81 @ pg.79*) "Judges possess absolute immunity for their judicial acts and subject to liability only in "clear absence of all jurisdiction." Stump v. Sparkman, 435bU.S. 349, 356-57 (1978). ...absolute judicial immunity ... (holding that a judge may "not be deprived of immunity because the action [taken] was in error, was done maliciously, or was in excess of his authority")."* It appears a new precedent is badly needed on Absolute Immunity and Inherited Authority of the court employees', their comrades are blindsided by immunity. The facts show constitutional rights were willfully deprived and statues ignored. The laws of this land should be the same for every man or Pro Se Woman. *See, United States v. Bishop, 412 US 346 – Supreme Court 1973: "The Supreme Court has defined "willfulness" as the voluntary, intentional violation of a known legal duty." – in (citations omitted).* An Order lifting the stay, See (Appx. DD pgs. 142 to 144) Order ECF #352 submitted with other evidence appealing to Charleston District Court *Hamilton I,* coming from SDNY Bankruptcy Court in ECF No. 96-1 pgs. 1 thru 4 for reconsideration. Petitioner provided evidence from Social Security (*Hamilton I* ECF 96-3 pg.2) proofing Magistrate Carr erred (fabricated) with the wrong date that Petitioner filed for "SSDI." It is not (30)/ Thirty days from Order ECF #352 (Appx. DD pgs.142 - 144) signed on July 17, 2009 -to- Appeal for Reconsideration ECF No. 96 on August 11, 2009. Therefore, appealing timely

(Appx. II pg. 207, ECF No.96), Judge Patrick Michael Duffy (Appx. CC pg.140 stamped DENIED); no reason or ***de novo***.

Petitioner had 30 days to appeal for reconsideration or continue the case in the non-bankruptcy court; Charleston District Court with the bankruptcy lift Order ECF #352 issued July 17, 2009. See SDNY 09-12795 Order (Appendix DD pgs. 142 to 144). Please note pg. 143: at "*1. Relief from the automatic stay is hereby granted pursuant to 11 U.S.C. § 362(d)(1) solely for the purpose of allowing the Movant to pursue an appeal in the South Carolina Litigation, and, if successful in such appeal, to proceed in the South Carolina Litigation for the purpose of liquidating Movant's claim,...establishing August 21, 2009 ... proofs of claim must be filed).*" Going from a bankruptcy court to a District Court on appeal allows 30 days to appeal for reconsideration; not for Pro Se. Transparency should have rules for oversight to ensure compliance to laws with facts. See (Appx. II pgs. 207 & 208).

Hamilton II: OSHA Form 300A Summary of Work-Related injuries and Illnesses report for 2006 is at ECF No. 1-2 pg. 87 and 88 of 99 showing "0" days away from work and Murdaugh accident (she was hospitalized) one week before. The "root cause" for 5/13/05 and 5/20 Petitioners accidents was water on the work place slippery waxed floor; unacceptable for OSHA. See, *Hamilton II* Deposition of Russell Revell confirms days away from work: ECF No. 1-2 pg. 45. Also, ECF No. 1-2 pg. 54 and 55. Therefore, zero is impossible. Charleston SC District Court employees, and Attorneys know they can provide false testimony, because of the likelihood Pro Se litigants will never get heard, or cases are dismissed

when the lies are discovered. Either way the guilty goes free and clear again, and again, and we Pro Se suffer a miscarriage to justice; over and over. Whereas, equal justice is not available in Pro Se claims this system needs a major reform, but starting from YOU, Court comrades will not look at themselves, because of immunity.

Immunity belongs to those whom misconduct or acts are done in good faith; not those destroying our faith in the system with misconduct as if they are above the law. Petitioner prays for God's Amazing Grace, and all appropriate Orders and Judgments be vacated, remanded and, or reversed, and a decision issued with various new precedents.

Respectfully asking for justice in Jesus' name,

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