No. 21-6613

In the Supreme Court of the United States

DeAndre' and Constance F. Russell,

Petitioner(s) pro se'

V.

United States of America/ State of Alabama

Respondents

October 11, 2021

ORIGINAL

On Petition for a Writ of Certiorari to the

United States Court of Appeals for the

Eleventh Circuit

PETITION FOR A WRIT OF CERTIORARI

DeAndre' Russell

Constance F. Russell

4882 James Street

Huntsville, Alabama 35811

Petitioner(s) pro se'

QUESTIONS PRESENTED FOR REVIEW

I Whether Rule 5.1 of the Federal Rules of Civil Procedures which reads in part; "A party is allowed to file a Complaint, (for Injunctive Relief) drawing into question the Constitutionality of a federal or state statute," would apply to a federal statute, passed by Congress, that involves this Courts Discretionary Review Process, and to which the high Courts of the State of Alabama follow in lock-step?

II Whether the doctrine of vertical and horizontal "stare decisis" ***"shall"*** be followed or simply ***"should"*** be followed by the lower courts, especially as it pertains to this Courts decisions on decided issues? And if it shall be followed, was this doctrine properly followed in the petitioner(s) cases? And if it was not, should this Court be allowed to ignore the harmful and injurious errors of the lower courts, through a federal law passed by Congress?

III. Did the Lower Courts, in these matters improperly dismiss petitioner(s) pro se' Complaint and Pleadings on grounds of ***Lack of Standing***?

IV. Did the Judicial Act of 1925 Unconstitutionally move this Honorable Court away from its Original Purpose, Intent and Responsibility?

PARTIES TO THE PROCEEDING BELOW, PURSUANT TO RULES 12.6

DeAndre' and Constance F. Russell are the Petitioner(s) pro se' in these matters. The United States of America and the State of Alabama are the Respondent(s), but the pro se' petitioner(s) make known that:

[x] *All* parties do no t appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

In re: DeAndre' Russell, No. 11-82514-JAC-13, U.S. Bankruptcy Court for the Northern District of Alabama. Judgment entered Dec. 20, 2011

DeAndre' Russell v. Phillip A. Geddes Trustee, No. 5:12-cv-01918-AKK, U.S. District Court for the Northern District of Alabama. Judgment entered July 5, 2012

DeAndre' Russell v. Phillip A. Geddes Trustee, No. 12-13537, U.S. Court of Appeals for the Eleventh Circuit. Judgment entered November 13, 2012

DeAndre' Russell v. United States of America, No. 12-9992, In the United States Supreme Court. Judgment entered, Denied NO OPINION, October 9, 2013

DeAndre' Russell v. Redstone Federal Credit Union, C. Howard Grisham, Jeffery L. Cook, John Larsen, Melissa Larsen, Phillip A. Geddes, Michael Ford, NO. 5:13-cv-02350-CLS, U.S. District Court for the Northeastern District of Alabama. Judgment entered January 17, 2014

DeAndre' Russell v. Redstone Federal Credit Union, et. al., No. 16-15117, U.S. Court of Appeals for the Eleventh Circuit. Judgment entered April 15, 2015

DeAndre' Russell v. Redstone Federal Credit Union, et. al. No. 5:13-cv-02359-HGD/AKK, United States District/Magistrate Court Judgment entered June 23, 2016.

In re: DeAndre' & Constance F. Russell, No. 14-80149-Tom/CRJ-13, U.S. Bankruptcy Court for the Middle and the Northern District of Alabama. Judgment entered

DeAndre' Russell v. Anthony Ingineeri, Mark Petterson, Mark Griffin, Kell Askew Gillikin, ***Adversary Proceeding,*** No. 15-00044-CRJ-13, U.S. Bankruptcy Court for the Middle & Northern District of Alabama. Judgment entered September 2015.

DeAndre' Russell v. Ingegneri,et al., No. 5:15-cv-01689-KOB, in the United States District Court for the Northern District of Alabama. Judgment entered

DeAndre' Russell v. Redstone Federal Credit Union No. 16-15117-E, in the United States Court of Appeals for the Eleventh Circuit. Judgment entered October 3, 2017.

DeAndre' Russell v. Anthony Ingineeri, et al, No. 16-16943-E, in the United States Court of Appeals for the Eleventh Circuit. Judgment entered

DeAndre' Russell v. Redstone Federal Credit Union, No 18-5765 in the United States Supreme Court. Judgment entered Oct. 2018. Denied, **NO OPINION**

First Resolution Investment Corp. v. Russell, Constance, No. DV-2005-002189.00. In the District Court of Madison Co,, Alabama. Judgment entered, Denied May 2, 2017 and May 25, 2017.

First Resolution Investment Corp. v Russell Constance No. CV-2017-000963.00. In the Circuit Court od Madison Co., Alabama. Judgment entered Dismissed. October 24, 2017 and November 28, 2017.

Constance F. Russell v. First Resolution Investment Corp., No. 2170251. In the State of Alabama Court of Civil Appeals. Judgment, Affirmed, **NO OPINION.** August 17, 2018 and September 5, 2018.

Exparte- Constance F. Russell v. First Resolution Investment Corp. No. 1171110. In the Supreme Court of Alabama. Judgment, Denied, **NO OPINION.** October 12, 2018.

Constance F. Russell v. State of Alabama, et,al. No. 9283. In the Supreme Court of the United States. Judgment, Denied, **NO OPINION.** October 7, 2019, Rehearing Denied December 9, 2019.

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Relevant Material

1-A Petition for Rehearing and Exhibits. Filed March 18, 2021 in the United States Court of Appeals for the Eleventh Circuit.

2-B Notice of Appeal. Filed April 30, 212, in the Federal District Court for the Northern District of Alabama.

3-C Orders from Bankruptcy Court. Filed May 14, 2012 in the United States Bankruptcy Court, for the Northern District of Alabama.

TABLE OF AUTHORITIES

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PETITION FOR A WRIT OF CERTIORARI

Petitioner(s) DeAndre' and Constance F. Russell respectfully submits this petition for a Writ of Certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit.

OPINIONS BELOW

The opinion of the United states Court of Appeals for the Eleventh Circuit is unpublished and is reproduced in the Appendix (App) at A 1-9. The opinion of the United States District Court for the Northern District of Alabama is unpublished and is reproduced at App. C 1-9.

STATEMENT OF JURISDICTION

The United States Court of Appeals for the Eleventh Circuit rendered its judgment on February 1, 2021. App. A-1-9. On May 18, 2021 this same Court also denied Petitioner(s) pro se' ***Petition For Rehearing.*** App. B-1. On July 19, 2021 this Honorable Supreme Court issued an Order that all rulings by the lower courts on Petitions for Rehearing made prior to July 19, 2021, automatically extends the time to file a Writ of Certiorari to this Court, to 150 days from the last Order of the lower court. **On October 14, 2021, The Clerk of this Court presented the pro se' Petitioner(s) with a letter to correct their Petition and filings by December 13, 2021, (60) days.** This Court now has the jurisdiction to consider, hear and decide this timely petition, pursuant to 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS

Article III, Section 2, Clause 1, of the United States Constitution states:

The Judicial Power shall extend to all cases in law and Equity, arising under this Constitution, the Laws of the United States,

Article III, Section 1, **The Judicial Power of the United States shall be vested in one Supreme Court.**

The 5th Amendment to The United States states: No person shall be deprived of life, liberty or property, without due process of law;

The 14th Amendment to The Constitution states: No state shall make or enforce any law which shalll abridge the privileges or immmunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

INTRODUCTION

[A]t the close of its October (2020) thru June of (2021) term, the U.S. Supreme Court has promulgated to the public, the Court's final rulings on all cases that this Honorable Court has chosen to take-up (hear and decide) in its calendar year. These decisions, made by this ***Highest Court,*** in our nation, on the various chosen cases, always attract the attention of all media outlets, along with most Americans, (as they should) because of the great impact that they have on our State and Federal Laws, as well as our society.

In its latest term, this U.S. Supreme Court may have been presented with an approximate 4-7000 petitions from around the country on cases involving business matters, politicians, prisoners, state and federal agencies, churches, schools, all the way down to cases involving the individual pro se' citizens. It should be noted that these petitions, no matter their differences of the issues or subject-matter, all share a common thread for seeking Judicial Review from this highest Court in the country, and that is....

THEY ARE ALL PREPARED TO MAKE A LEGAL ARGUMENT THAT THEY WERE DENIED JUSTICE THROUGH SOME CONSTITUTIONAL RIGHT AND/OR STATE OR FEDERAL LAW. And although these cases may begin with the Complaining party's pleadings from some type of violation, by the (defendants), it always ends, with no exception, by the time the case reaches this highest Court, **with a petitioner's claim of a Constitutional injustice from an improper ruling, made by the lower State and/or Federal Courts.**

So how does this [one] Supreme Court[1], which is now and has been made up of (9) Justices *since (1869), accommodate such an over-whelming yearly term* of case-loads from petitioners, who are all seeking judicial review of their cases. [E]ven more, is the process for case determination that is being used today by this Honorable Court to determine what cases it will take up, and those that it will not, in contrary to the original purpose, intent and responsibility of this [one] Supreme Court, under Article III, Section 2, Clause 1, of the Constitution.[2]

It is a fact that out of the 4-7,000 case that may come before this court in a yearly term, approximately, 30-50 of those cases are actually decided by this court. It is also a fact that the vast majority of the cases that this Honorable Court receives in a calendar year are disposed of by a system that allows this Court to enter rulings that state "denied no comment", to those petitions that this Court has decided not to take up. It should further be noted that this system of the disposal of cases through a "denied no comment ruling" would also apply to cases that may be considered that of a [M]eritorious claim.

This would now raise several important and Constitutional questions of law, concerning this process for judicial review by this highest Court, in our nation. First, is it unconstitutional to deny meritorious cases by the highest court in the nation?[3] Second, where does a party go for a denial of equal justice under the

1 Article III Section I, The Judicial Power of the United States, shall be vested in one Supreme Court.

2 Article III, Section 2, Clause 1, The Judicial Power shall extend to all cases, in Law and Equity, arising under this Constitution, the Laws of the United States.

3 The Supreme Court's mandatory jurisdiction is now all but gone. During the first century of its existence, the Supreme Court, like other appellate courts, decided on the merits all cases appealed to it over which it had jurisdiction. *Epitaph for Mandatory Jurisdiction*, by Mayer Brown

Law, of their [m]eritorious case, when that denial of equal justice was claimed with facts and evidence to have been committed by the lower courts and when the highest Court in the land, who has been given the authority, jurisdiction and the responsibility to over-rule any and all lower courts decisions, are allowed, by Federal Law, to deny their case with a refusal to comment?[4] And third, how does the phrase, "denied no comment" Constitutionally equate to meaning that the lower Courts made the right decision?

Ultimately, this case will raise and address (4) important questions of law, that only this Court can settle. ***First,*** can a ***Federal Law*** that allows decisions made by lower state and federal court(s) that may display their failure to follow the Rules, Procedures and Case Laws that are prescribed by the highest State and Federal Court, along with the allowance of these highest State and Federal Court's ability to evade such a case, when brought to their attention, by the issuance of a ruling that states, "denied no comment" ***cause personal, injury in fact, along with a continuous threat of imminent injury, to a plaintiff.***[5]

Second, Can the judicial process for case determination, that is being used today by the highest state and federal courts, that allows for the denial of such a meritorious case, with a no comment ruling, be traced to a Federal Law passed by the U.S. Congress, to which the State of Alabama follow in lock-step? ***Third,*** can this federal law, that was passed by the U.S. Congress, which allows these highest

4 Written above the main entrance to the Supreme Court building are the words: EQUAL JUSTICE UNDER THE LAW, these words express the ultimate responsibility of the Supreme Court of the United States. As the final arbiter of the law, the Court is charged with ensuring the American people the promise of equal justice under the law.

5 *The Doctrine of Stare Decisis*

court(s) to prescribe rules that would enable them to [e]vade such a case, be challenged pursuant to **Rule 5.1** of *the Federal Rules of Civil Procedures.*[6] And ***fourth,*** did the petitioner(s) pro se' Complaint and pleadings meet the requirements for having the ***"Standing,"*** to file such a complaint?

This case should be heard by this Honorable Court because it presents historical elements that make it not only a ***"case or controversy"*** for Article III adjudication, it is also a case that presents ***"exceptional circumstances,"*** because, from the outset, A party with proper "standing" of such a case, would present to these Court(s) a ***subject-matter*** that only this Honorable Court can settle.

The historical elements stem from the fact that it was nearly a ((100)) years ago to the date (December of 1921), that a president of these United States, William Howard Taft, who successfully moved the U.S. Congress to ***reform*** this highest Court in the land, from what many may argue, its original Constitutional purpose, intent and responsibility for the administering of Equal Justice To All, to a now adopted Judicial Process that has become, "Federal Law," that now allows this [one] Supreme Court to [e]vade cases with [m]eritorious claim, "without any comment."

Further elements of historical valve, stem from the fact that today, the (2020) Elected President of these United States, Joseph Biden has now, as of February of 2021, established a commissioned panel to recommend to the U.S. Congress, once again, a ***"reform of needed changes"*** to this [one] Supreme Court.

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6 Rule 5.1((a)), off *The Federal Rules off Civil Procedures,* Allows a party that files a pleading, written motions, or other papers drawing into question the constitutionality of a federal or state statute.

This case presents this Honorable Court, The President's Commission for Supreme Court Reform and The State and Federal Legislator(s) of our nation, with a "cause of action" that presents the most primary and necessary ***Reform*** that is needed in order to improve this [one] Supreme Court, and that is... TO HAVE IT RETURN BACK TO ITS ORIGINAL PURPOSE, INTENT AND RESPONSIBILITY TO THE AMERICAN PEOPLE AND THE CONSTITUTION OF THESE UNITED STATES.

STATEMENT OF THE CASE

A. Factual Background

Not long after its creation by Congress in 1789. under Article III, Section 1 of the Constitution, the U.S. Supreme Court ((the highest court in our nation)) would soon be faced with its greatest challenge. That challenge would be; how would the highest *Judicial Power* be able to extend to alll ***(meritorious) cases,*** in law and equity, in accordance with Article III, Section 2, clause 1, of the Constitution, to an over-whelming case-load of appeals.

To alleviate this over-whelming case-load problem, Congress first passed *the Judicial Act of 1891,* otherwise known as the **(Evarts Act)** that established the U.S. Circuit Court of Appeals. The primary purpose of these Circuit Court of Appeals was to relieve this [one] Supreme Court from the amount of cases it was receiving on appeals, from the Federal District Courts along with the various State Supreme Courts.[7]

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7 During the first century of its existence, the Supreme Court, like other appellate courts, decided on the merits all cases appealed to it over which it had jurisdiction. In 1891, when the Court became unable to keep up with its increasing caseload, Congress created the Circuit Court of Appeals, *Moyer Brown, Epitaph for Mandatory Jurisdiction*

History and facts now show that as time passed, and even with an increase of these established U.S. Circuit Court of Appeals, the case-load of appeals to this [one] Supreme Court has continued to grow at a substantial rate. As earlier noted, today, this [one] Supreme Court may now receive an approximate 4-7 thousand cases, in a calendar term, from petitioners around the country that are requesting Judicial Review of their cases from an [e]ver and [a]lways claim of some type of Constitutional injustice.

To finally alleviate this case-load problem once and for all, a proposal to the U.S. Congress was made by then Chief Justice William Howard Taft, who, prior to be coming the Chief Justice of this U.S. Supreme Court, was the nations 27th President of the United States. His proposal, which began its journey in ***December of (1921)***, was to ***reform*** this [one] Supreme Court, by moving it from the Highest Court in the nation that was obligated to extend to all [m]eritorious case in Law and Fairness, arising under the Constitution, the Laws of the United States, to a Judicial Process whereby this [one] Honorable Court would now be allowed to deny cases appealed to it, even if [m]erit exist, by a discretionary process, rooted in no set of laws, rules and terms to **Congress,** as to why the [m]eritorious case will not be heard, and disposed of by the use of a phrase called, "denied no comment" as meaning that the lower courts made the right decisions.

His reasons for moving this Court to this type of ***Discretionary Review Process*** was that this [one] Supreme Court should not waste its time on all cases appealed to it, whether [m]eritorious or not, but rather, they should only use their time for ***"more important"*** cases that [t]hey decide if [t]hey want to hear.

Thus, after a (4) year push to the U.S. Congress in (1921) to adopt this type of discretionary judicial review process into federal law, he successfully convinced the U.S. Congress to pass a federal law called ***the Judicial Act of 1925,*** otherwise known as the ***"Judges Bill."*** It is this Judicial Process that as of today, this [one] Supreme Court uses to determine (by a count of (4) justices) which cases it will hear and those it will not. And it is this "Federal Law" that was passed by the US Congress, that the petitioner(s) pro se' claim has caused [t]hem, personal, injury in fact, along with a continuous threat of immminent injury.

B. Proceeding below

DeAndre' and Constance F. Russell filed this Civil Rights lawsuit under 42 § 1983 and pursuant to 5.1 of *The Federal Rules of Civil Procedures,* in the Federal District Court for the Northern District of Alabama, against the United States of America and the State of Alabama. [T]heir claim seeks injunctive and just relief from personal and in fact injuries that [t]hey claim they have suffered, along with [t]heir claim of a continuous threat of further injury. [T]heir Complaint make known that their injuries are first due to a series of court proceedings that were held in State, Federal and Bankruptcy Court(s), that they claimed, had violated [t]heir Constitutional due-process rights along with [t]heir Constitutional Right to Equal Justice under the Law, that involved court proceedings between the years of (2011-2019). [T]heir claim further make known, with facts and evidence from court documents, ***as their proof,*** that their injuries were first caused by these

lower courts faillure to adhere to the Rules, Procedures and Case Laws that are prescribed by the highest state and federal courts.

Finally, the Russell's Complaint and Pleadings ultimately make known that [t]hey were injured by [t]heir claim of an unchecked and unconstitutional federal law, (The Judicial Act of 1925) that was passed by the U.S. Congress, to which the State of Alabama follow in lock-step. It is this federal law that has caused [t]hem the most personal, injury-in-fact, along with the threat of future injury, because it is this law, that alllows this Honorable Court along with the Alabama Supreme Court to further deny them due-process along with the equal protection of the laws of their [m]eritorious cases, by ***a denial, with a "no comment" ruling.***

The Federal District Court dismissed the pro se' Russell's Complaint and denied most off theiir motions as moot. It held that the pro se' Russell's ***lack the standing*** to challenge this federal law. According to the lower court, the Russell's lacked standing because theiir Complaint was general and not personal, iit was not concrete and actual nor did it not show or address an injury. *App. C 1-9.*

The Eleventh Circuit Court of Appeals affirmed the judgment of the district court, but on a different basis. *App. A1-9.* That court held that the pro se' Russell's lacked Standing because they did not show any "real or immmiinent" threat off future injury.

This petition follows.

I.

REASONS FOR GRANTING THE WRIT

THE LOWER COURTS WERE WRONG ON PETITIONER(S) ISSUES OF 'STANDING'

As pro se' litigants, the Russell's fully understood that in order to file their "September 27, 2019 Complaint, in the Federal District Court, their suit must first present a "case or controversy" in order to be heard by an Article III Court. "Article III of the Constitution confines the federal courts to adjudication of actual "case and controversies." To ensure the presence of a "case or controversy," this Court has held that Article III requires, as an irreducible minimum, that a plaintiff allege (1) an injury that is (2) "fairly traceable to the defendant's allegedly unlawful conduct" and that is (3) "likely to be addressed by the requested relief." *Allen v. Wright*, 468 U.S 737,751 (1984).

The rulings from both the Federal District Court and the Court of Appeals, in this case, has omitted and misconstrued, in their Opinions, the true nature and meaning of the pro se' plaintiff(s) written Complaint and Pleadings, in accordance with this Court's standard for construing pro se' pleadings. It should further be noted that both of these lower Courts(s) has used as its primary source for denying the Russell's complaint, on the issue of *standing*, this Court's ruling in the case of *Lujan v. Defenders of Wildlife, 504 U.S. 555 June (1992). See both Orders, of the Lower Courts, App. A 1-9 and C 1-9.* [8]

8 *In Lujan v. Defender's of Wildlife,* this Court held that the Court of Appeals erred in holding that respondants had standing on the grounds that the statute's citizen-suit provisions confers on all persons the right to file suit to challenge the Secretary's failure to follow the proper consultative procedure, notwithstanding their ability to allege any separate concrete injury flowing from that failure. This Court further reminded the lower Circuit that it has consistently held that a plaintiff claiming only a generally available grievance about government,

It will be the petitioner(s) pro se' argument to this Court, that the lower Court(s) has greatly failed and erred in their opinions, in adhering to this Court's standard, for the requirement of ***"standing."*** To prove these facts *we begin our* ***argument with the District Court:***

This Court has made known in the cases of ***Bell Atlantic v. Twombly (2007)*** and *Ashcroft v. Iqbal (2009)*, that changes were made to the pleading standards by putting into retirement the oft-quoted line from its 1957 decision in *Conley v. Gibson* that "a complaint should not be dismissed for failure to state a claim **unless it appears beyond doubt that a plaintiff can prove no set of facts in support of his claim, which would entitle him to relief. The Twombly and Iqbal cases,** instead has explained that Rule 8 would now require that a complaint would include more "[factual] allegations,"[9]*Pleading Facts and Arguing Plausibility: The Federal Pleading Standards, a year after Iqbal. June 2010// Commentaries.*

During this same time period as the *Twombly* and *Iqbal cases*, this Court also sounded a permissive chord to the Circuits, in the case of ***Erickson v. Pardus, 127 S.Ct 2197 (2007)***, which pertains to pleadings made by pro se' litigants. It is to this pro se' standard, giving by this Court, that petitioner(s) pro se' ask that their Complaint and Pleadings would be compared to the rulings of the lower court(s). ***The pro se' Russell's begin their argument with the Order of the district court.***

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unconnected with a threatened concrete interest of his own, does not state an Article III case or controversy.

9 The Twombly court explained that Rule 8 of the Federal Rules of Civil Procedure would now require that a complaint include facts (as distinct from legal "labels" and "conclusions") giving rise to a "plausible" (rather than mere "conceivable" entitlement to relief. Two years later in *Iqbal*, the Court confirmed that *Twombly* applies to all civil cases, not just antitrust cases or complex cases.

On April 9, 2020, the Federal District Court Judge for the Northern District of Alabama entered its Memorandum Opinion, denying the pro se' Russell's Complaint for ***Lack of Standing.*** In his (9) page opinion, petitioner(s) pro se' ask that this Court would focus its attention on the last paragraph of page (4), and the first paragraph of page (5), which reads:

"In reviewing the Plaintiff's complaint, the Court find that they have alleged only a generalized injury by claiming that the practice of "no opinion ruling" and discretionary appellate review deprives them of various constitutional rights including the right to due process. Although the plaintiff's vaguely refer to cases they were actually involved in, they do not provide any detail about those proceeding. Their grievance is not a concrete, particularized, actual, or imminent injury. Instead, Plaintiff's sweepingly claim that all citizens of the United States suffer when they receive "no opinion" rulings from an appellate court."

It is this above paragraph, made by the district court, that presents the only basis for the lower district court's denial of the Pro se' Russell's Complaint. All other pages of the district court's (9) page memorandum opinion references improperly applied case laws. The following below will present a comparison to the above words of the district court, to the actual words of the [factually] alleged claims, found in the petitioner pro se' complaint. It is these actual words, found in the plaintiff's complaint that should also present the requirements for standing, giving by this Court, that was ignored and misconstrued by the lower court(s).

[A]

The (6) requirements for standing that was ignored by the lower courts

The attorney(s) for the State and Federal Government, stated in their brief to the Federal District Court for the Northern District of Alabama, that the Russell's complaint should not be entertained by this court because first, their complaint was not ***well-pleaded.*** The pro se' petitioner(s) has presented to both lower courts that this Court has said in *Erickson v. Pardus;* Federal Rule of Civil Procedure 8(a)(2) requires only "'a short and plain statement of the claim showing that the pleader is entitled to relief." Specific facts are not necessary; the statement need only "'give the defendant fair notice of what the..... Claim is and the grounds upon which it rests." ***Bell Atlantic Corp. v. Twombly,*** 550 U.S.___,___ ***(2007) (quoting Conley v. Gibson, 355 U.S. 41,47 (1957).***

This Court has further stated in, *Erickson v.Pardus, 127 S. Ct. 2197(2007)* that not only was the simple and fair plain statement of the above Rule 8(a) was sufficient and to be applied, this Court also reminded the Circuits and the other lower Courts that, **A document filed pro se' is "to be liberally construed," *Estelle v. Gamble, 429* U.S. [97] at 106,97 S. Ct. 285, and "a pro se' complaint, however in artfully pleaded must be held to less stringent standards than formal pleading drafted by lawyers,"ibid. (internal quotation marks omitted). Cf. Fed. Rule Civ. Proc. 8(f) ("All pleadings shall be so construed as to do substantial justice").**

The short and plain statement of the ***pro se'*** Russell's Complaint that required the most "liberall construing," by the lower courts was found on page ((4)),

paragraphs ((11)) and ((12)), to which their rulings will show that neither court((s)) has properly addressed and has giving little to no attention to. It reads as follow:

"As to plaintiff DeAndre Russell, the record will now show that he has now twice petitioned the Supreme Court to hear a case or controversy whereby he has presented his evidence of injuries, from bankruptcy attorney(s) ineffective assistance of counsel, bankruptcy judges not following the Rules and Procedures of bankruptcy law, State Officials filing of false claims in bankruptcy court, creditors who committed fraud, federal district judges who also, not only failed in following the rules and procedures, but who also displayed a total bias toward plaintiff, and a Court of Appeals who refused to not only apply their own case laws, but also comment with a ruling on the legal standard, given by this U.S. Supreme Court, for overcoming the issue of res judicata, and only to be denied adjudication of these injuries, "without an opinion."'

As to plaintiff Constance F. Russell, the record will now show that she has petitioned the Alabama Supreme Court to hear a case or controversy whereby [s]he has presented evidence of injuries, from her attorney's ineffective assistance of counsel, indisputable discovered fraud by the creditor of her judgment, and an indisputable failure by the Madison Co. District and Circuit Court Judges, along with the Judge(s) of the Alabama Court of Civil Appeals to follow the Rules, Procedures and Case Laws, in accordance with Alabama Law, as it pertains to the subject of her case, by which she was to only be denied adjudication of these injuries, "without an opinion," *see App. E, Complaint, page 4, par. (11) & (12).*

It was here, on this page, that the pro se' Russell's made know that their Complaint was "***personal*** and not generalized," when they stated the words: **As of (their names),** along with the words; **[h]e and [s]he were injured** from the **named parties by the listed violations.** It was also here, that the pro se' Russell's Complaint of injuries **was** *concrete, particularized and actual, when they stated:* **"The Record Will Now Show," that they did not follow Rules, Procedures and Case Laws made by the Highest Court** *This statement would* have signified to the lower Courts, how they were injured, who caused their injuries, along with a statement that, as proof and evidence of their [factually] alleged claim of injuries, Judicial Court Records exist that would prove their claim of injuries to be true.

And finally, it is here, in these paragraphs of the pro se' Russell's complaint that they made known that their injuries were ultimately, **caused by** a judicial process that not only allowed these lower federal and state courts, to include the Federal Bankruptcy Court, to deny them of these Rules, Procedures and Case Laws made by these High Courts, their Complaint further made known that the ability to have these matters from the lower courts ignored, by the highest State and Federal Courts (The U.S. Supreme Court and The Alabama Supreme Court) **whose decisions on Rules, Procedures and Case Laws are suppose to be upheld, is traceable to a Federal Law that was passed by the U.S. Congress, to which The State of Alabama follow in Lock-step that is called, (The Judicial Act of 1925).**

It was further made known in the petitioner(s) pro se' pleadings to both lower Court(s), by the request for a Stay, that these injuries has caused [t]hem further ***imminent injuries,*** by a continued Loss of [t]heir income, [t]heir health

along with the continuous threat of a loss of [t]heir property rights, *See App. F. Motion for Stay and Petitioner(s) Petition for Rehearing, and Evidence.*

What should now be clear from the above actual words that are found in the pro se' Russell's Complaint is that the District Court did not construe the entirety of their complaint, in accordance to this Courts standard for "'pro se' pleadings." **It is also clear that the response and attention that was given to page (4) paragraphs (11) and (12) of the pro se' Russell's Complaint, by the District Court Judge,** in pages ((4)) and ((5)) of his Memorandum Opinion, whereby he states; "Although the plaintiff's vaguely refer to cases they were actually in, they do not provide any detail about those proceedings," displays an omission, by the district **court, to address the entirety of the words presented in [t]heir Complaint.**

In other words; if the listed claims of violations, by these lower courts, that are found on page ((4)) of the Russell's Complaint can be proven by Court Records, and if this Honorable Court along with the lower state and federal appellate courts are allowed, by a Federal Law, to deny [t]heir petitions, that make known these violations, with a "denied no comment ruling" would this not present a personal and injury in fact claim by the Russell's?

In sum, the pro se' Russell's Complaint, in page ((4)) paragraphs ((11)) and ((12)), should have satisfied, in accordance with this Court's standard and its decided case law rulings on the presented subject, the requirements for ***a)*** a *well-pleaded* enough complaint for Rule 8(a)(2) and pro se' standards, ***b)*** a legitimate claim of personal injury, ***c)*** a legitimate claim of [factually] alleged injury with court documents as their evidence.

d) a provable claim of continuous immminent iinjury,, and ***e)*** **a** legitimate claim of traceability of what law allows for the unlawful conduct.

The Petitioner((s)) pro se" now turn to the February 1,, 2021 ruling made by the U.S. Court of Appeals for the Eleventh Circuit, that affirmed the district court's ruling on a different basis. Their ruling stated that the plaintiff's lacked standing, not because of [t]heir claim of a past personal and injury in fact, but instead, their dismissal was based on the plaintiff's failure to show no real or immediate threat off future injury from a party and//or a denial from another no comment ruling, from an appellate court, *App. A, pages 8,9.*

Their exact words are found on pages ((8))and ((9)) of their Order that states:

"Never have Plaintiffs alleged that they are still at imminent risk of a future due process violation. The three civil actions underlying Plaintiff's complaint are already final: Plaintiffs thus face no threat of alleged future injury from the issuance of a "no opinion ruling" in those cases. Nor have Plaintiffs alleged that they have other pending lawsuits that might give rise to a reasonable expectation that Plaintiffs are likely to be subject to future injury from the issuance of a "no opinion ruling." Plaintiffs have alleged no "real or immediate" threat of future injury. Plaintiffs thus lack Article III standing to bring this action for prospective declaratory or injunctive relief."

It is once again, like that off the district court that we find that it is these two paragraphs, from the Court of Appeals (9) page Order that present the only basis for the denial of the pro se" Russell's Complaint on grounds for Lack of Standing. Furthermore, the petitioner(s) pro se' contend to this Honorable Court, that the Court of Appeals two paragraph reasons for denying their complaint presents many gross error, to which they will now show how those gross errors

went to the heart of the petitioner(s) pro se' case, for having the proper standing, in these matters, to file their suit.

When the Court of Appeals said that, "Never have the Plaintiffs alleged that they are still at imminent risk of a future due process violation, they were wrong. Proof of this error is found on page 11, paragraph 47, of the Plaintiff(s) pro se' complaint which reads:

"In the absence of an injunction and stay, ***Plaintiffs*** and citizens from the State of Alabama and across this country, who seek Judicial Review of their cases, in (State and Federal) Appellate Court(s), and whose case may contain merit and be of public importance, that is only to be denied their case without comment, will continue to suffer irreparable injury, not only from an opposing party that was able to evade review and adjudication on the merits of their wrong-doing, but moreso ***Plaintiff(s)*** and the citizens would continue to suffer from a Judicial System that violates due process rights."

What makes the Court of Appeals decision incorrect, in these matters, is that for the pro se' Russell(s) that ***personal*** and future threat of imminent injury, along with the threat of [t]hem receiving another "no comment" ruling, that was referenced on page 11, paragraph (47) of their complaint, began the moment that they filed their September 27, 2019 ***Complaint and Pleadings,*** in the Federal District Court for the Northern District of Alabama.

In other words; what has ***personally*** happened to the pro se' Russell(s), since [t]hey made these statements found in page (11), paragraph (47) of their September 27, 2019 Complaint and Pleadings. Have the Russell's been given ***a proper due process*** proceeding, ***in these currant matters?*** Also, have they received ***any "no comment" rulings, from an Appellate Court,*** since the filing of

their September 27, 2019 complaint? And finally, has there been ***a threat of imminent injuries from other parties,*** since the filing of this September 27, 2019 Complaint and was the lower courts aware that these threats could happen?

It should further be noted that because the ***pro se'*** Complaint involved issues of a claim from an unconstitutional judicial review process, the lower court(s) would have automatically known (from court records and the plaintiff's relief request from other parties), that other parties from prior court proceedings, would have a great interest in the out-come of this case because of, "prior ***judgments in their favor,"*** which in turn, would have automatically made the issue of "immminent injury" present. This is true for the followiing reasons;

It is well established that when a court has issued its judgment against a losing party, that losing party is now subject to the opposing party's demands. [E]ven iff the lower court's decisions are found to have substantiall error, such as a failure to follow this Court's prescribed Rules, Procedures and Case laws, without an overturning of those faillures, by an appellate court, the losiing party would now automatically be faced with ***the threat of immediate and future imminent injury from that opposing party. In the Russell's case, it would have been from all parties from their (2011), (2014) and their state court proceeding, (i.e., [t]heir Mortgager, the I.R.S.. the State of Alabama, and certain other creditors).***

It is also welll established that [e]ven if the losiing party is able to prove welll beyond a reasonable doubt that the lower court's decision was grossly erroneous and has departed far from the normall course off judicial proceeding[10], *the federall*

10 Rule 10 ((a)) of the Supreme Court Rules which is titled **Considerations Governing Review of Certiorari** states im part, that ; A Writ of Certiorari may be considered if the U.S. Court of Appeals has ***so far departed from the***

law that has been complained of by petitioner(s) pro se", would continue to allow these appellate Court(s) to [e]vade adjudication of these meritorious harmful errors, ***by the denial of their case with a no comment ruling,*** which would in and of itself, only expand on the ***imminent and irreparable harm*** being committed against the losing party.

[B]

The Lower Courts did not present the pro se' plaintiff(s) with a meaningful opportunity to be heard. nor a neutral and detached decision maker

It is the pro se' Russell's contention that the lower Courts, in this now appealed Complaint to this Court, has failed to provide [t]hem, since the filing of these matters, with a meaningful opportunity to be heard, as well as providing [t]hem with a neutral and detached decision maker, in accordance with the prescribed Rules, Procedures and Case Laws made by this [one] Supreme Court. To present this claim of failure in these matters, ***we begins with the following;***

Pro se' litigants deserve the minimum due process rights to which all other litigants are entitled. The most significant of these rights is an opportunity to be heard, "granted at a meaningful time" and "in a meaningful manner." Other minimum due process protections include the requirement of adequate notice, the right to a neutral and detached decision maker, the right to hire counsel, the right to present evidence and confront and cross-examine witnesses, and the

accepted and usual course of judicial proceedings; It should be noted that even if a petitioner is able to prove beyond doubt that the lower court departed greatly, it still does guarantee Judicial Review from this Court.

right not to be subjected to the jurisdiction or laws of a forum with which one has no significant contacts. As this Court has noted in *Logan v. Zimmerman Brush Co., 455 U.S. 422,437 (1982), however, not "every civil litigant [is entitled] to a hearing on the merits in every case."*

The Federal District Court for the Northern District of Alabama and the United States Court of Appeals for the Eleventh Circuit has both denied the pro se' Russell's, ***in these matters,*** with a proper and meaningful proceeding. *To prove these facts petitioner(s) begin with:*

1. The Dec. 5, 2019, INITIAL ORDER GOVERNING ALL FURTHER PROCEEDINGS

After it was determined that the parties did not consent to a magistrate judge, the Honorable Liles C. Burke, district court judge was assigned to this case, who immediately presented an ***Initial Order,*** that reminded the parties of their obligation under Federal Rules of Civil Proc. 26(f) to confer, as soon as practicable, for the purposes of considering the nature and basis of their claims and defense, for the possibility for a prompt settlement or resolution of the case. This initial order further stated that if the parties are unable to agree upon a date, time or place for such conference, the parties would then be **ORDERED** to meet in the chambers of the judge, *See Doc. #17, Initial Order, Pages (1)&(2).*

The pro se' Russell's attempted to schedule that meeting by calling the U.S. Attorney, Carla Ward, who stated that she was not interested in meeting and was simply going to wait for the judges answer to the Complaint. Furthermore, there exist no Order on the docket sheet whereby the district court judge schedule a meeting in his or any chambers, when it was clear that the parties did not meet.

These actions would have displayed a denial to the pro se' Russell(s) to be heard, on this Initial Order, **"granted at a meaningful time and in a meaningful manner.**

2. The Lower Courts failed to "liberally Construe" the pro se' Russell's Complaint and Pleadings

It has now been made known in the prior pages of this brief, that the pro se' Russell's were denied a *liberal construing* of their Complaint and Pleadings. It should further be clear and beyond any doubt from the **Orders** of both lower courts, in these matters, that page (4), paragraphs (11) & (12) of the pro se' Russell's Complaint, which ***required the most liberal construing,*** were not giving the required amount of due process and attention, that was required under the *Haines* standard. *Haines v. Kerner, 404 U.S. 519 (1972).*[11]

3. The lower Courts failed to provide neutral and detached decision makers

The record involved in the Russell's September 27, 2019 Complaint, make clear that in the (10) plus years that the Russell's have been attempting to seek justice from creditors who has committed fraud[12], (Redstone Federal Credit Union and their attorney(s) C. Howard Grisham and Jeffery L. Cook) (Providian Financial Services/First Resolution Investment Corp.), along with ineffective assistance of Counsel from their attorney(s) (John and Melissa Larsen and Michael F.

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11 A denial of due process does not occur iff a state restricts the right of access by means of reasonable procedural requirements. **A litigant is denied due process, however, if these requirements work to deny him a meaningful opportunity to be heard. A refusal to construe pleadings flexibly, as required under Haines v. Kerner, is tantamount to the withdrawal of that meaningful opportunity.**

12 Title 11 U.S.C § 1306((b)) chapter 13 debtor has standing to litigate cause of action. Further the Code provides that no claim may be allowed to the extent that it is unenforceable against debtor., Merck & CO. v. Renolds 559 U.S. 663,664 (2010) "fraud discovery rule" delayed "until the plaintiff has "discovered" his cause of action

Robertson).[13] Also, State Officials who displayed a pattern of filing a false claim in bankruptcy court,[14] along with bankruptcy trustee(s) who clearly did not protect the interest of the debtor(s) estate[15]. And finally, a bankruptcy judge who made orders that displayed "a clear absence of his jurisdiction.[16]" These actions, to which petitioner(s) pro se' has been ready to prove them and now, with facts and evidence, from court documents, as to their validity, has yet to receive any adjudication from the Alabama District, Circuit, and Court of Civil Appeals, the Federal Bankruptcy Court, the Federal District Court for the Northern District of Alabama, and the U.S. Court of Appeals for the Eleventh Circuit. It should be noted that these are the parties that were mentioned in petitioner(s) pro se' September 27, 2019 filed Complaint, on *page (4) paragraphs (11) and (12).*

It is for the above reasons that shortly after submitting their Complaint, in the Federal District Court for the Northern District of Alabama that they then filed ***a Motion To Change Venue,*** *See, doc.#11, District Court.*

It is the pro se' Russell's contention that the lower Court(s), in these matters involving their September 27, 2019 Complaint and Pleadings, could not properly

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13 Cannon 6, Ethical Considerations, requires competent representation.

14 Title 18 § 152, It is a crime to file a false claim in bankruptcy court

15 Under Title 18 §323(b), the trustee, as representative of the estate, has the exclusive capacity to sue and be sued on behalf of the estate and is charged by law to represent the interest of the estate against third parties claiming adversely to it.

16 In re: Health Care Products, 169 B.R. 753 (M.D. Fla. 1994), (Filing a Notice of Appeal from an Appealable Order divest the lower court of jurisdiction over issues related to the appeal.) Bradley v. Fisher, 80 U.S. 335 (1872) Excess of Jurisdiction and acted Maliciously & corruptly, ***to sue judge must show a "'clear absence of his jurisdiction.'" See, Petitioner's Notice of Appeal, from 2011 bankruptcy, April 30, 2012 for Confirmation by Fraud . Also see, Orders by bankruptcy judge to continue to raise debtor's, payments to court, after Appeal had been made, in May of 2012.*** *App. F -2 B Relevant Material.*

have acted as detached and neutrall decision makers. And it should now be clear to this Honorable Court, that the denial of their Motion To Change Venue, by these lower courts, would have presented a ***violation of their Due Process Rights,*** once again, in accordance to the *Haines* standard that was made by this Court.

II.

CERTIORARI SHOULD BE GRANTED

BECAUSE THE DOCTRINE OF "VERTICAL AND HORIZONTAL" STARE DECISIS MUST BE SETTLED BY THIS COURT

One of the Honorable Justices of this Supreme Court, ***Amy Coney Barrett*** wrote an important, yet somewhat confusing article concerning this doctrine of Stare Decisis called, ***Stare Decisis and Due-Process.*** In her article, she discussed the different issues as to its ***flexibility,*** along with how the lower courts are and should be applying this doctrine to their cases. And although she went into great details as to its origins, its preclusion affect on non-party persons as well as how it relates to the issue of ***due process,*** the article, although extremely informative, did not simplify nor address, the reliance and importance of its usage by those of us who may not be an attorney, and who may be forced to appear in a state or federal court to represent themselves, and who also may deeply rely on its needed and proper application in a consistent and uniform manner.

This portion of the petitioner(s) pro se' brief, presents to this Honorable Court how important this doctrine of stare decisis has played in their cases, as

well as how their reliance upon it, through-out their (10) year court battle, meant nothing to the lower court(s), that has handled their cases.[17]

Whether it be a plaintiff or a defendant, one represented by counsel or one representing themselves as pro se,' and whether it be a case held in a state court or a federal court, a complaining party must take into a courtroom (4) necessary items, in order to have the lawful and constitutional ability, in this country, to succeed on the merits of their case. ***First,*** one must have sufficient knowledge of the state and/or federal Rules and Procedures of our Judicial System and the Court that one has entered, *Faretta v. California, 422 U.S.* at 819-820.

Second, one must have the legal standing and the ability to sufficiently draft a proper and meaningful complaint against the opposing party. ***Third,*** one must have the necessary facts and evidence to prove that they have been injured, by the opposing party. ***Fourth*** and finally, one must take into court the knowledge on case law as to, ultimately, **"What did the highest Court in our nation say on the matter being Complained of."** It is this fourth and needed item to complete one's chances of successfully wining their case, on the [m]erits, that this topic will now focus on.

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17 ***The doctrine of Stare Decisis***, which is Latin for "to stand by things decided, is a judicial doctrine under which a court follows the principle, rules, or standards of its prior decisions or decisions of higher tribunal when deciding a case with arguably similar facts. The doctrine of stare decisis has ***"horizontal"*** and ***"vertical"*** aspects. A court adhering to the principle of horizontal stare decisis will follow its prior decisions absent exceptional circumstances (e.g., the Supreme Court following its decisions unless they have become too difficult for the lower courts to apply)). By contrast, vertical stare decisis **binds lower courts** to follow strictly the decisions of higher courts within the same jurisdiction, ((e.g., a federal Court of Appeals must follow the decisions of the U.S. Supreme Court, the federal court of last resort)).

[A]

The Necessity of Stare Decisis

Whether it be in a State or Federal Court the process used by the lower court(s) for interpreting the equity and often times, the constitutionality of our state and federal laws, can from the out-set, prove to be healthy for our judicial process and system. The adjudication results, often ends with differing opinions from the different state and federal judges, on the various subject matters that it would have been presented with. These differing opinions, which can often be from the same subject-matter, can shed a positive light, by presenting a different perspective from the decisions of the lower judicial power's exercising of their responsibility of finding, concluding and applying Equal Justice under the Law, based on the intent of our state and federal legislators enactment of those laws.

It appears that this Court often carry a "from the bottom up" approach on how it deals with this matter. In other words, it appears that this Court allows the differing opinions from these lower Courts on the various subject-matters, to go on for an undetermined amount of time, until [i]t decides that it is now "ripe" for this Court to step in and settle the issue or subject-matter once and for all.

But, can there be negative consequences to this type of approach. And also, are there cases that should not require the lower courts to differ on certain subject-matters. More importantly, how does this highest Court handle cases appealed to it from these lower state and federal courts that should not have required a different opinion, on a specific subject-matter.

In other words; when this Honorable Court has spoken in the majority on a decided subject-matter, how are the lower courts suppose to rule on that subject-matter, when it is once again brought before them. And iff it is able to be proven that these lower court(s), did not follow this Court's precedent, through a Writ to this Court, why would it not be ***"important enough,"*** for this Court to, at the minimum, send the case back to the lower court(s), ***(with due process words) of instructions?*** And finally, should the poor loser litigant be divested of their possessions, property and liberty from an Order of a lower court, that did not conform to this Court's precedent ruling?

The answer to these questions lye in [two] further question concerning this subject of "Stare decisis," The first question would raise the issue of ***"should"*** this doctrine be followed or ***"shall"*** this doctrine be followed? And the second question would be; How would the issue that it, "should" be followed, represent a litigant's, Equal protections of the law?

The pro se' Russell's are not without an understanding of the complexity of this doctrine. [T]hey understand that there must be a balance involving this doctrine, whereby on one hand a court should follow its precedent rullings, and on the other, a recognition that there must be room to allow a challenge, to come up the chain, *iff it is a bad precedent.* But what the pro se' are prepared to argue is that this Court must find a better way to balance the complexity of this doctrine, not just as it may relate to the Court(s) inconsistent and often times nonuniform, approach, but also a balance to the ***Rights of the litigant,*** especially those who

may be representing themselves as pro se' litigants and who often rely fully on this doctrine's supposedly **"horizontal and vertical"** currant usage. It is its currant usage, that at present, suppose to provide the greatest protection to litigants, especially those who are pro se', from runaway lower courts, that may decide that it does not want to follow this Court's precedent or its own. We argue that a uniform and consistent standard of case law precedent rulings, involving this doctrine of stare decisis, is good and proper for all Court(s) to follow, but only to the extent that, that standard must present an indisputable uniform display of wisdom based in whats Right, Fair and Just to all. Because without it, there can be no Equal Justice under the law. And it is their contention that the record of their proceedings will show that this doctrine was not equally applied, to the matters of their cases.

[B]

The gravity to which the pro se' petitioner(s) were denied this doctrine presents a gross injustice

From the beginning, when it was ***discovered*** that their (2011) bankruptcy attorney(s) would not represent them, in accordance to the Rules and Procedures of bankruptcy law, along with the sobering discovery that no other lawyers that they contacted wanted to represent them, nor could they now afford one, the pro se' Russell(s) began, to what has now become a (10) year plus journey to date, the judicial process of (learning) how they would now represent themselves. Although they knew that they had standing, in all their matters and could prove, with facts

and evidence, that their claims of injuries were valid, and although they learned the State and Federal Rules and Procedures, for presenting [t]heir cases, to the Court(s), they did not know that the lower state and federal courts were allowed to ignore this Highest Court of our nation's, rulings and Orders of their majority decided cases.

It is important that this Honorable Court know the full depth and degree, to which this [one] Supreme Court's majority decided cases, were ignored by the lower state and federal courts, in [t]heir cases. In other words the pro se' Russell's will now show how they have yet to receive the *"horizontal" and "vertical"* effects of this doctrine called ***"stare decisis.***

In bankruptcy, *Title 11 §105(a)* grants a bankruptcy judge the full authority and jurisdiction to be the final federal arbiter, of a state, to settle in a completely equitable and just manner, a debtor's financial affairs, (i.e., his debt with creditors of all sorts). *Title 11 § 106* further grants this same bankruptcy judge the authority and jurisdiction to also include his ability to settle debts relating to all *state and federal tax agencies*. This Court has stated in the case of ***Brown v. Felson, 442 U.S. 127 (1979),*** that a bankruptcy judge can even look-behind a state-court judgment when the issue of a "fraudulent claim" has been presented, *Title 11 § 505 & 523*. This Court has further stated in such cases as; *Merck & Co. v. Reynolds, 559 U.S. 663,664 (2010)* and *Gabelli v. SEC, 568 U.S. 442,450 (2013)*, that a party is allowed to use the ***"discover rule"*** to bring in such fraudulent claim when the normal timeline to do so has expired. The record will show that although petitioner(s) used these type of Supreme Court cases, and more, for their defense, in [t]heir

(2011) bankruptcy, the judge, in his December of 2011 Memorandum Opinion, gave these cases no consideration, and instead ruled that Alabama Law was paramount to Federal Bankruptcy Law, *see Dec. 11, 2011 Memorandum Opinion, case #11-82514-JAC-13. See also, Ala. Code §6-2-3 overcome statute of Limitation.*

Next, this Court presented the ***Rules and Procedures*** on how the lower courts should handle the issue of an Untimely Appeal. This Court made known in the case of, In re: *SPR v. Resolution Trust Co.*, the (2) step process on how the lower court(s) were to handle an untimely appeal. In its wisdom, this Court stated that in bankruptcy, the court should examine and rule in accordance to the reasons for the "excusable neglect" of being untimely, pursuant to Rule 9000(b)(1)[18]. Although the petitioner(s) used this case law, along with presenting to the district court their reason for being untimely, the July 5, 2012 Memorandum Opinion from the district court, did not afford the Russell's of this case law, nor did he comment, in his ruling on whether the Russell's reasons for being untimely, was sufficient or not, *See, July 5, 2012 Memorandum Opinion, district court, case # 5:12-cv-1918-AKK.*

In Alabama, the Constitution of that state's ***Declaration of Rights Art., I § 13(2)*** states the following:

This section and Article I section 6, Alabama Constitution of 1901, by guaranteeing the due process rights to citizens, and section 10, by holding inviolate a persons right to defend himself in a civil action to which he is a party., elucidate this state's commitment to protect an individual's right to attain adjudication on the merits and to afford litigant's an opportunity to defend. Therefore, a trial court, in

18 Conn. State Dental Ass'n. v. Anthem Health Plans Inc., 591 F.3d 1337, 1355 (11th Cir. 2009)) (quoting Pioneer Inv. Servs. Co. v. Brunswick Assosc. LTD P.Ship 507 U.S. 380,389 113, S.Ct. 1489,1495 (1993), *Excusable Neglect.*

determining whether to grant or deny a motion to set-aside a default judgment, should exercise its broad discretionary powers with liberality and should balance the equities of the case with a strong bias toward allowing the defendant to have his day in court, *Kirkland v. Ft. Morgan Authority and Sewer Services, Inc., 524 So. 2D 600 (Ala. 1988)*.

The case law mentioned in the above Declaration of Rights, was a landmark case decided by the Alabama Supreme Court that made clear to all state lower court judges on how they are to handle litigants, who presented a Motion to Set-Aside a Judgment, when the requirements of this *Kirkland doctrine* has been met.

The Record will show that although the pro se' Russell's followed the Rules and Procedures in presenting the needed requirements of this *Kirkland doctrine,* through their Motions, they were not only denied an answer as to whether they met these requirements but, they were also denied a basic hearing on the entire matter. And it should further be noted that when these matters were brought to the attention of the highest Court in Alabama, through a Writ, (The Alabama Supreme Court), who is the Court that fashioned the Rules and Procedures of this subject-matter, through a Case Law, they were denied Review, without comment.

The 14th Amendment states; no state shall make or enforce any law which abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.

The Russell's will argue that a denial to grant a basic hearing on these matters, as well as afford [t]hem due process and the equal protection of the States Declaration and the Supreme Court Case Law that put into place the Rules and Procedures as to how this subject-matter is to be handled by these lower

Alabama Court(s). These actions would have presented a clear violation of theiir guaranteed 5th and 14th Amendment Rights. It is for these reasons that their Complaint made known the defendants as the United States of America and the State of Alabama, because it is clear that this States judicial process of a denial no comment ruling, follows in lock-step with the federal Judicial process. And it is this process, that was created and passed by our **Federal** Legislatures, that has caused [t]hem personal, injury in fact and a continued threat of imminent injury.

Finally, the doctrine that began the process of this (10) year plus court battle was over the issue of the doctrine of resjudicata. This now (10) year plus battle staried because a creditor and their attorney(s) were committing unlawful acts against the Russell's, to which [t]hey had and still have documents as proof.[19] What the pro se" Russell's discovered was that the law allows one to over come this doctrine iff certain criteria s are met. The case that benefited the Russell's the most, was a U.S. Supreme Court case called *Lawlor v. National Screem Service, 349 U.S. 322 (1955). In sum,* **this Court said: that res judicata does not apply to a second suit, even if the case involves the same nucleolus of the facts, so long as there is a showing of a worsening of the earlier condition.** Although the Russell's used this case, along with Rule 60(b) (5)(6) and "the discovery rule,"the lower state/ federal court(s), to this day, have failed to provide an answer, in all Orders, as to whether they met the requirements for over-coming, this doctrine.

19 Alabama Code§ 7-9A-618, Requires a secured party in a consumer good transaction to provide a debtor with a notification off how it calculated a deficiency at the time it first undertakes to collect a deficiency. U.C.C. § 9-507 Provides for Judicial Review off the resale both before and after it has taken place. Failure off secured party to make "Commercially Reasonable" dispositon off Collateral under U.C.C. § 9-504((3)) as bar to Deficiency Judgment. *See also,* **Ala. Code §7-2-302 and § 8-19-5(23).**

III.

THE WRIT SHOULD BE GRANTED

BECAUSE THE MODERN-DAY ISSUES THAT OUR NATION IS FACING TODAY MAKE THIS CASE RIPE, FOR THIS [ONE] SUPREME COURT TO RECLAIM ITS CONSTITUTIONAL PURPOSE, INTENT AND RESPONSIBILITY

It has been said by many scholars that one of the most important Supreme Court cases was the case of, *Marbury v. Madison, 1 Cranch (1803)*, because it was this case that established the Supreme Court's power of Judicial Review, **(the right to declare a law unconstitutional)** over Congress. It also helped to define the boundaries between the executive and judicial branches of the United States Government.

Today, we are now faced with a pandemic, along with a state and federal political system, across this nation, that is throwing our great nation into a world wind of chaos, confusion and divide, to the likes that many of us have never seen.

As examples: we are now faced with state and federal agencies that are attempting to enforce, across this country, mandatory vaccines on all Americans, a tech-industry that may be prohibiting freedom of speech, an uncontrollable crime wave, caused by the implementation of unjust and unconstitutional laws. We are further being faced with a possible unconstitutional implementation of an illegal border crisis. **These are just to name a few.**

It is the pro se' argument to this Court that America, our great nation, is plunging into **a rapid point of no return**. It is further their argument that this

plunge began when our nation's 3-tiered governmental system veered from an important statement found in the preamble to our Constitution, that reads;

WE THE PEOPLE OF THE UNITED STATES IN ORDER TO FORM A MORE PERFECT UNION ESTABLISH ***"JUSTICE."***

It was clear that **our founders understood that before we could ensure** domestic tranquility, provide for the common defense or promote the general welfare, there must first be an establishment of Equal Justice. Without Equal **Justice there can be no existence of a prosperous, free and stable country. A** careful study of our Constitution and its ***three branch governmental set-up,*** along with the listed Amendments, ***presents a christian picture that most Americans have failed to grasp.*** And with all due respect to the (9) Honorable members of this [one] Supreme Court the burden of maintaining that christian picture, as it **pertains to the Laws and Affairs of maintaining a stable and just government and society, was designed to governmentally,** rest squarely on this [one] Supreme Court.

Our founders, in their wisdom, gave us a Governmental System that granted our State and Federal branches (Executive and Legislative) the power to create **all laws that they think, feel and believe that are right, fair and just to the people of this nation.** At the same time, they gave the people an amendment (the First Amendment) that would grant to all citizens a freedom to exercise their personal religion **of (what they think, feel and believe is right, fair and just).** *See definition of religion, from old copy of webster's dictionary, "Any specific belief".* Mixing the politics of a Congress, who are also citizens entitled to this religious

freedom, **(what they think, feel and believe)** with a society of citizens, who has also been granted the right to exercise their Religious Freedom, creates an automatic explosion of chaos, confusion and disorder, that must be contained.

The answer to this containment was ***giving through providence,*** and that was; to create [one] Supreme Court that would be appointed as the head of the Judicial Powers, of this nation. Its ***purpose,*** was to not only be the final arbiter of the law, but who would also make certain that, that law must be embedded in what would be Right, Fair and Just to all the People of this nation. ***True Equal Justice, under the Law.***

This [one] Supreme Judicial Power, under its Article III powers would now have the authority and jurisdiction to ultimately, settle all meritorious disputes, that would be brought before it in a judicial setting, that arises under this Constitution, and that would pertain to the Laws of these United States. This means that whether it would be laws pertaining to our schools, churches, state and federal governmental agencies, businesses, and all other Laws that Congress puts fourth, and yes, to include all issues pertaining to; ALL LOWER COURT(S), both state and federal that may interfere and prevent any litigant from receiving their Constitutional Rights to an Equitable access to the Rules, Procedures and Case Laws, that this Court puts fourth, this Court has been given the authority, duty and responsibility to settle. See, *The House Bill, the Open Access to Courts Act (H.R. 4115) and the Senate Bill, the Notice Pleading Restoration Act (S. 1504).*

The requirements for achieving this Constitutional purpose is ***simple and***

yet extremely difficult, and has already been embedded into your job description, and that is; ***"to Rule from the Center."*** What we *have learned is* that this Center, take no sides. It does not lean to the right or the left. It is not a republican nor a democrat. It is not based in a liberal or a conservative view point. It does not see color, nor does it see race. It does not see poor, nor does it see rich. It does not hate nor does it treats unfair because it disagrees. **And most of all, this Center present an Equal Justice, embedded in the Law of what's right, fair and just, to** everyone.

What we have ultimately learned, your Honorable Justices is that this ***Center Way,*** that our Founding Fathers gave us, through Providence, to which you were all appointed to uphold, was a judicial System that was to be based and rooted in, ***the Christian Way. What this Country has Forgotten, by DeAndre' Russell.***

Our nation has lost its way. It has become completely divided because every one is taking sides. It is the pro se' Russell's argument to this Court that it is time for this Honorable Court, who has been appointed, by Congress and the **Constitution, under Article III § 1,** as the governmental gatekeeper of the law, to be the Final arbiter of ***what Law, is Right, Fair and Just..***

The Russell's understand that in caring this awesome and heavy load of responsibility, of ruling from the "Center" by this [one] Supreme Court, that there will be plenty of Americans, whether it be Congressional figures, the media, big businesses, schools, individual citizens, churches, and yes, to include, all those of the lower state and federal judiciary, who may not like or appreciate this type of

Center Rulings, from this Court. But, it is this center way, that is not only the way that this court can preserve our nation, for years to come, but it is also the only way to make certain that our judicial system can maintain its original purpose, intent and responsibility to the American people and our Constitution of these United States.

For what we have also learned your honorable justices, is that right, fair and just to all, equals "truth" and that "truth", does not belong to any of us, and does not rely on what we think, feel or believe. And this "truth" can always be spoken clearly, boldly and with out fear, as well as unable to be contradicted or to go against by anyone. ***Luke 21:14-17.***

CLOSING REMARKS

The Judicial Act of 1925 is an unconstitutional Federal Law because it removed this [one] Supreme Court from its original intended purpose under Article III, § 1 of the U.S. Constitution and its responsibility to the American people, under Article III, section 2, cl. 1 of the U.S. Constitution. This [one] Court did not need the U.S. Congress to create this federal law, in order to help control its case-loads, ***nor was it by Constitutional Law, allowed to accept such a law.*** Congress gave this Honorable Court all that it needed when it created the U.S. Court of Appeals, in 1891. *Please allow argument as to what went wrong.*

This Court, under its Art. III powers has from the beginning possessed the discretionary authority and jurisdiction to decide those cases that it should hear and those that it should not. Furthermore, this Court, under its Article III powers has been charged, with the responsibility, by an oath to this Constitution, with the

daunting and overwhelming task of making certain that the ***Laws,*** as it relates to the relationship between government and the people, ***remain in the center.***

This Honorable Court has been given the authority, jurisdiction and the responsibility to sit in this **center,** and extend its tentacles of prudent judgments into every Constitutional and Legal conflict, that may give rise, for settling, under this Constitution and the Laws of these United States.

For these reasons, the acts by this Court of denying meritorious cases with ***no comment rulings,*** such as our, as well as such recent cases as the State of *Indiana v. University case,* which was denied by the ***Hon. Amy Coney Barrett*** and the recent New York case v. Union members, that was turned down with a denied no comment ruling by your ***Honorable Justice Sonya Sodomayer, is wrong.***

This Court should not by law, be allowed to make statements as it did in the case of *Maryland v. Baltimore Radio Show Inc., 338 U.S. 912 (1950),* whereby when ask for clarification on its former ruling, denied review and used the Judicial Act of 1925 as its reasons, to deny. The Russell's did not need their case to be a spotlight of attention in this Court, but what we did needed and Constitutionally deserve, was a simple answer from this [one] Supreme Court, as to whether the lower court's decisions were in accordance to this Court's, Rules, Procedures and Case laws.[20]

It is our argument that Chief Justice Marshall got it right, in the case of *Worchester v. Georgia, 31 U.S. (6 Pet.) 515 (1832),* when he stated; ***Those who fill***

20 28 U.S. Code § 2072, The Supreme Court shall have the power to prescribe general rules of practice and procedure and rules of evidence for cases in the United States district courts (including proceedings before magistrate judges thereof) and courts of appeals.

the judicial department have no discretion in selecting the subjects to be brought before them. Id. at 541 [21]

It is for the reasons presented in this Writ of Certiorari, that the pro se' Russell's will contend that the lower court(s), in these matters, were wrong on their dismissal for Lack of Standing, and it is for these reasons presented in this brief that the Judicial Act of 1925 that gives this Honorable Court the legal ability to deny their cases with "no comment ruling" is unconstitutional along with the reasons also presented in this brief, that should entitle the pro se' Russell's with ***Injunctive and Equitable Just Relief.***

CONCLUSION

For the foregoing reasons, the petition for writ of certiorari should be granted.

Respectfully submitted,

DeAndre' Russell

Constance A. Russell

4882 James Street

December 11, 2021 **Huntsville, Alabama 35811**

Petitioner(s) pro se'

21 *The Case Selection Act of 1988*, completed the final transfer, by Congress of allowing this [one] Supreme Court to select which cases it would hear, and those it will not, through the discretionary review process.