

(1) On Petition for writ of Certiorari to The United States Supreme Court From the Fourth (4th) Circuit

John Rabin vs. Newport News Circuit Court via Timothy Fisher (Judge)

Docket No: 21-6831

Applicable Facts and Laws to Constitute Petition to be reheard.

The petitioner was placed on trial in 2014 and judge Timothy Fisher was the adjudicator. During the trial, the petitioner objected to constitutional errors and motioned to invoke statutory rights. Judge Fisher's decisions were contrary to rules of decisions provided by the constitutional provisions several times. He still endorsed an order to deprive liberty, without due process (entitlements) on June 26th, 2014. The United States Constitution's

Fourteenth (14th) Amendment constitutionally mandates;

No state shall deprive liberty, without due process of law.

There is (no authority) to deprive liberty, without due process of law is a rule of decision enforced within

United States vs. Lee 106 U.S 196 (1882)

(A). Judge Timothy Fisher ordered a deprivation of liberty, without the statutory due process protection of Virginia Code (18.2-434) and it invalidates the conviction for the state to use false evidence.

Per se the relevant rule of decision of this court in Miller vs. Pate 386 U.S 1 (1967)

(25)

(B) Judge Timothy Fisher ordered a deprivation of liberty, without the statutory due process protection of Virginia Code (19.2-268) and it is a due process violation for counsel or the court to abridge the right to testify and advocate our Innocence, Per se the relevant decision of The Supreme Court of The United States Gallup v. United States 114 F.3d 1196 (1999).

Judge Timothy Fisher's orders were an act of (bad faith) in violation of state codes. Orders to deprive the petitioner's liberty, without due process of law are a nullity and void. The principle of constitutional law is established and enforced by the relevant decision of The Supreme Court of The United States in Marbury v. Madison 5 U.S 137 (1803). All governmental acts repugnant to the constitution are illegal and should not be (made) or (enforced) as constitutionally mandated by the provisions of The United States Constitution's Fourteenth (14th) Amendment.

The petitioner filed a writ of Habeas Corpus with the Newport News Circuit Court in October of 2011. Judge Timothy Fisher adjudicated

(3)

the claims. His actions were contrary to United States Codes 28 U.S.C.S 455(b)(1), 28 U.S.C.S 455(b)(3) and 28 U.S.C.S 2243.

However, Judge Timothy Fisher created another unconstitutional order in August 8, 2019 by postponing and refusing an effective remedy. An ordinary act contrary to acts of Congress and constitutional entitlements to an impartial tribunal. Timothy Fisher endorsed another deprivation of liberty, without the equal protection entitlements of the Sixth (6th) and Fourteenth (14th) Amendments to an impartial tribunal. The relevant decision of The Supreme Court of The United States in *Tumey vs Ohio* 273 US 516 (1927) held; It constitutes a due process violation to subject a citizen's liberty to a court with a direct or personal interests in The United States Constitution's Article Three(3), Section 1(b)(2), case or controversy. Can the court adjudicate his own errors impartially as required by the Sixth (6th) and Fourteenth (14th) Amendments?

The petitioner objected to the Final order of The Circuit Court to preserve the errors for appeal to The Supreme Court of Virginia.

(4)

The timely objection and the Motion for a preliminary hearing was never disposed of by an order. The petitioner invoked the right to a hearing pursuant to 28 U.S.C.S 2243 because there were disputes of facts. Instead of ruling on the motion, the trial court performed (laches) by removing the record from the court.

Never fulfilling the duty to notify the petitioner, until after the time for appeal had expired.

A writ of mandamus to The Supreme Court of Virginia was filed to compel Judge Timothy Fisher to conform to The United States Constitution's Fourteenth (14th) Amendment provision and not deprive liberty without due process and equal protection of laws. Also, compelling Timothy Fisher to conform to 28 U.S.C.S 2243 and dispose of the Federal question as (law) and (justice) requires pursuant to oaths and obligations.

(28 U.S.C.S 453) Lastly, compelling Judge Timothy Fisher not to deny the human rights to a public hearing, by an independent and competent tribunal in the determination of the petitioner's rights. The interests are declared in Article Ten (10) within The Universal Declaration of human rights

(5)

and corroborated by Acts of Congress 28 U.S.C.S 144, 28 U.S.C.S 455(b)(1), 28 U.S.C.S 455(b)(3) and 28 U.S.C.S 2243. Timothy Fisher's endorsed signature on August 8, 2019 constitutes violations of The Constitution, Acts of Congress and treaties made by the Nation's authority. All causes of action of the current petition for appellant jurisdiction with 28 U.S.C.S 1331(a). 28 U.S.C.S 1338 provides four (4) years to file a civil complaint arising under an act of Congress.

The courts within Virginia are knowingly violating The United States Constitution's provisions for due process and equal protection of Federal statutory law. They are knowingly making decisions contrary to decisions of The Supreme Court of the United States. 28 U.S.C.S 2254(d)(1)

All endorsements are affirmative actions to help conceal, there's no authority to deprive liberty without due process. Orders that contribute to the on going Federal violations or constituting an accession with more unconstitutional orders. Based on the rules of decision in Branzburg vs. Hayes 408 U.S 665 (1972) The misprision of a Felony under United States Code 18 U.S.C.S (4) as cited in the above mentioned case.

(6)

Those statutes creates an interests for the petitioners, the state court decisions are deprivations of the interests, which constitutes the Federal injuries in fact. Per se the principle enforced with the relevant decision Within Wards vs. Seldin 422 US 490 (1905). A right to liberty is (set up) and claimed pursuant to provisions of the United States Constitution and the authority of National treaties. There's a right to be free and pursue happiness per se Meyers vs. Nebraska 262 US 396 (1923). Can it constitute a civil crime to subject the petitioners to involuntary servitude or slavery contrary to the thirteenth (13th) and Fourteenth (14th) Amendment?

The record demonstrates the petitioner was not (fully) convicted. Statutory due process should not be withheld because it constitutes denial of equal protection of laws. The rule of decision is enforced with Ex Parte Commonwealth of Virginia 100 US 389 (1880).

(7)

The right to liberty is established in The International Covenant on Civil and Political Rights Article Nine (9).

The Supreme Court decisions has decided since (1882), within United States vs. Lee 106 US 196 (1892), that there's no authority to deprive liberty without due process of laws. Secondly, public officers are creatures of the laws, bound to obey them. The exact same rule of decision is constitutionally mandated by The United States Constitution Article Six(6), Clause Two (2). The Supremacy Clause is a law that prohibits judicial decisions contrary to constitutional entitlements,

The unconstitutional decisions endorsed by Judge Timothy Fisher and The Supreme Court of Virginia substantiates the elements of the Act of Congress, (Mispriision of a Felony)

Does it violate the Fourteenth (14th) Amendment to discriminate against the petitioners and withhold the civil, human and political rights to equal protection of laws?

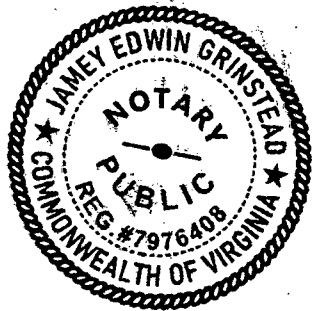
It was decided with Ex Parte Commonwealth of Virginia 100 US 339 (1880)

(7) It's an obligation to obey the laws of the land, public officers do not have the option to disobey the constitution nor acts of congress, in situations where the petitioner's rights depend upon the correct legal decision. The misapplication of the correct rule of decision is by law a Federal crime. Every state order that misapplies the correct constitutional rule of decision is a deprivation of liberty without due process and equal protection of laws. Acts of Congress consider, the concealment of a Felony or (civil crime) by an affirmative action to constitute knowingly furthering the unlawful conduct to deprive liberty, (a Federal crime). All courts are expected to know clearly established Federal laws. (Mens Rea) Refusing to apply clearly established laws by unconstitutional orders are illegal as an overt act. (Actus Reus) Public officers are knowingly and intentionally making unconstitutional orders to deprive liberty by prolonging the issuance of an effective remedy. For all the reasons, not previously mentioned prior to the March 2022 order, the petitioner has a right to an effective remedy, to stop the state of Virginia's unlawful conduct via Judge Timothy Fisher, Melissa Hayman and Douglas Robelen's acts. Conduct, which is causing the petitioner great and irreparable harm. Sworn this 11th day of April 2022

19  
All Facts and laws are true and accurate to authorize the courts remedial powers to protect liberty from unlawful state conduct. Praying for the injunction for an effective remedy to restore petitioner's rights and forbid the state from knowingly violating Federal rights to liberty, life and property. Public officers in Virginia are acting like there is no law called The United States Constitution's Fourteenth (14th) Amendment, which constitutionally mandates; No state shall deprive liberty without due process of laws. As determined by The Supreme Court of The United States. (Rule 10(c))  
Swearing, this 11th day of APRIL, 2022  
this is an affidavit of complaint and petition for  
Relief

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John Roper # 1355505 2B-04  
Marion Correctional Treatment Center  
116 Wright Street  
Marion, Virginia 24354-3145



City/County of Sage  
Commonwealth of Virginia  
The foregoing instrument was acknowledged  
before me this 11 day of APRIL 2022  
by J. Grinstead

Notary Public  
My commission expires: MARCH 31, 2026

Entered into Custody Legal Exhibit (A) Pursuant To Rule (32.1)

## USCS Const. Amend. 1, Part 1 of 8

Current through the ratification of the 27th Amendment on May 7, 1992.

*United States Code Service > Amendments > Amendment 1 Religious and political freedom.*

### Amendment 1 Religious and political freedom.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.  
(Right of Action)

United States Code Service

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*Congress shall make no law (abridging) the right of the people to petition the Government for a redress of grievances.*

## 28 USCS § 1658

Current through Public Law 117-80, approved December 27, 2021.

*United States Code Service > TITLE 28. JUDICIARY AND JUDICIAL PROCEDURE (§§ 1 — 5001) > Part V. Procedure (Chs. 111 — 133) > CHAPTER 111. General Provisions (§§ 1651 — 1659)*

### **§ 1658. Time limitations on the commencement of civil actions arising under Acts of Congress (Right of Action)**

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(a) Except as otherwise provided by law, a civil action arising under an Act of Congress enacted after the date of the enactment of this section [enacted Dec. 1, 1990] may not be commenced later than 4 years after the cause of action accrues.

(b) Notwithstanding subsection (a), a private right of action that involves a claim of fraud, deceit, manipulation, or contrivance in contravention of a regulatory requirement concerning the securities laws, as defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), may be brought not later than the earlier of—

- (1) 2 years after the discovery of the facts constituting the violation; or
- (2) 5 years after such violation.

### **History**

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#### **HISTORY:**

Added Dec. 1, 1990, P. L. 101-650, Title III, § 313(a), 104 Stat. 5114; July 30, 2002, P. L. 107-204, Title VIII, § 804(a), 116 Stat. 801.

Enter legal Exhibit 4 (three(s)) into Library pursuant to Rule 2011

## 28 USCS § 1652

Current through Public Law 117-80, approved December 27, 2021.

*United States Code Service > TITLE 28. JUDICIARY AND JUDICIAL PROCEDURE (§§ 1 — 5001) > Part V. Procedure (Chs. 111 — 133) > CHAPTER 111. General Provisions (§§ 1651 — 1659)*

### **§ 1652. State laws as rules of decision**

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(Right of Action)

The laws of the several states, except where the Constitution or treaties of the United States or Acts of Congress otherwise require or provide, shall be regarded as rules of decision in civil actions in the courts of the United States, in cases where they apply.

### **History**

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#### **HISTORY:**

June 25, 1948, ch 646, 62 Stat. 944.

United States Code Service

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The laws of the several states, shall be regarded as rules of decisions in civil actions in the courts of The United States, in cases where they apply. (Except where (the Constitution) or (Treaties of The United States) or (Acts of Congress) otherwise require or provide)

(the Constitution) or (Treaties of The United States) or (Acts of Congress) otherwise require or provide

(Enter legal Exhibit four (4) into Westbody Pursuant to Rule 32.1)

## 28 USCS § 455, Part 1 of 2

Current through Public Law 117-80, approved December 27, 2021.

*United States Code Service > TITLE 28. JUDICIARY AND JUDICIAL PROCEDURE (§§ 1 — 5001) > Part I. Organization of Courts (Chs. 1 — 23) > CHAPTER 21. General Provisions Applicable to Courts and Judges (§§ 451 — 463)*

### **§ 455. Disqualification of justice, judge, or magistrate [magistrate judge]**

- (a) Any justice, judge, or magistrate [magistrate judge] of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.
- (b) He shall also disqualify himself in the following circumstances:
  - (1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;
  - (2) Where in private practice he served as lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it;
  - (3) Where he has served in governmental employment and in such capacity participated as counsel, adviser or material witness concerning the proceeding or expressed an opinion concerning the merits of the particular case in controversy;
  - (4) He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;
  - (5) He or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:
    - (i) Is a party to the proceeding, or an officer, director, or trustee of a party;

**28 USCS § 2243**

Current through Public Law 117-80, approved December 27, 2021.

*United States Code Service > TITLE 28. JUDICIARY AND JUDICIAL PROCEDURE (§§ 1 — 5001) > Part VI. Particular Proceedings (Chs. 151 — 190) > CHAPTER 153. Habeas Corpus (§§ 2241 — 2256)*

**§ 2243. Issuance of writ; return; hearing; decision**

A court, justice or judge entertaining an application for a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.

The writ, or order to show cause shall be directed to the person having custody of the person detained. It shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed.

The person to whom the writ or order is directed shall make a return certifying the true cause of the detention.

When the writ or order is returned a day shall be set for hearing, not more than five days after the return unless for good cause additional time is allowed.

Unless the application for the writ and the return present only issues of law the person to whom the writ is directed shall be required to produce at the hearing the body of the person detained.

The applicant or the person detained may, under oath, deny any of the facts set forth in the return or allege any other material facts.

The return and all suggestions made against it may be amended, by leave of court, before or after being filed.

The court shall summarily hear and determine the facts, and dispose of the matter as law and justice require.

6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

#### **Article 7**

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

#### **Article 8**

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

2. No one shall be held in servitude.

3.

(a) No one shall be required to perform forced or compulsory labour;

(b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;

(c) For the purpose of this paragraph the term "forced or compulsory labour" shall not include:

(i) Any work or service, not referred to in subparagraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;

(ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;

(iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;

(iv) Any work or service which forms part of normal civil obligations.

#### **Article 9**

#### (Rights of Action)

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

#### **Article 10**

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

2.

(a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;

(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

#### **Article 11**

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

salary.

~~The powers are not disengaged by the office  
in the case for J. S. 602, 15 A. L. R.~~

[2] That officers acting in a judicial or quasi judicial capacity are disqualified by their interest in the controversy to be decided is of course the general rule., Dimes v. Grand Junction Canal, 3 H. L. C. 759; Gregory v. Railroad, 4 Ohio St. 675; Pearce v. Atwood, 13 Mass. 324; Taylor v. Commissioners, 105 Mass. 225; Kentish Artillery v. Gardiner, 15 R. I. 296, 3 A. 662; Moses v. Julian, 45 N. H. 52, 84 Am. Dec. 114; State v. Crane, 36 N. J. Law, 394; Railroad Company v. Howard, 20 Mich. 18; Stockwell v. Township, 22 Mich. 341; Findley v. Smith, 42 W. Va. 299, 26 S. E. 370; Nettleton's Appeal, 28 Conn. 268; Cooley's Constitutional Limitation (7th Ed.) p. 592 et seq. Nice questions, however, often arise as to what the degree or nature of the interest must be. One is in respect to the effect of the membership of a judge in a class of taxpayers or others to be affected by a principle of law, statutory or constitutional, to be applied in a case between other parties and in which the judge has no other interest. Then the circumstance that there is no judge not equally disqualified to act in such a case has been held to affect the question. Wheeling v. Black, 25 W. Va. 266, 280; Peck v. Freeholders of Essex, 20 N. J. Law, 457; Dimes v. Grand Junction Canal, 3 H. L. C. 759 (see Baron Parke's Answer for the Judges, pp. 785, 787); Year Book, 8 Henry VI, 19; s. c. 2 Roll. Abridg. 93; Evans v. Gore, 253 U. S. 245, 247, 40 S. Ct. 550, 64 L. Ed. 887, 11 A. L. R. 519; Stuart v. Mechanics' & Farmers' Bank, 19 Johns. (N. Y.) 496; Ranger v. Railroad, 5 H. L. C. 72. We are not embarrassed by such considerations here, for there were available in this case other judicial officers who had [273 U.S. 523] no disqualification, either by reason of the character of their compensation or their relation to the village government.

[3] All questions of judicial qualification may not involve constitutional validity. Thus matters of kinship, personal bias, state policy, remoteness of interest would seem generally to be matters merely of legislative discretion. Wheeling v. Black, 25 W. Va. 266, 270. But it certainly violates the Fourteenth Amendment and deprives a defendant in a criminal case of due process of law to subject his liberty or property to the judgment of a court, the judge of which has a direct, personal, substantial pecuniary interest in reaching a conclusion against him in his case.

[4] The mayor of the village of North College Hill, Ohio, has a direct personal pecuniary interest in convicting the defendant who came before him for trial, in the \$12 of costs imposed in his behalf, which he would not have received if the defendant had been acquitted. This was not exceptional, but was the result of the normal operation of the law and the ordinance. Counsel for the state do not deny this, but assert the validity of the practice as an exception to the general rule. They rely upon the cases of Ownbey v. Morgan, 56 U. S. 94, 41 S. Ct. 433, 65 L. Ed. 837, 17 A. L. R. 873; Murray's Lessee v. Oboken Land & Improvement Co., 18 How. 272, 276-280, 15 L. Ed. 372.

[5] These cases show that in determining what due process of law is, under the fifth or Fourteenth Amendment, the court must look to those settled usages and modes of proceeding existing in the common and statute law of England before the