

ORIGINAL

Case Number # 21-7215

Supreme Court, U.S.
FILED

JAN 10 2022

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In the
Supreme Court of the United States

Clayton G. Walker,

Petitioner,

Vs.

Freemans Electric Service Inc. and United Fire Group (UFCS), Ect. al.

Respondent.

On petition for Writ of Certiorari from the Supreme Court Of South Dakota

PETITION FOR WRIT OF CERTIORARI

<p>Clayton G. Walker 1736 E. Tallent St. #4 Rapid City SD 57709-0682 ussenatecandidate@gmail.com Claytongwalker4sdsenate@gmail.com Claytongwalker.com</p>	<p>Attorney for the Respondent Ms. Laura K. Hensley, Boyce Law Firm PO Box 5015 Sioux Falls SD 57117</p>
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**In the Supreme Court
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<p>Clayton G. Walker</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">Vs.</p> <p>Freemans Electric Service Inc. and United Fire</p> <p style="text-align: center;">Group (UFCS), Ect. al.</p>	<p style="text-align: right;">Case # _____</p> <p style="text-align: right;">Appellate # 29601,Civ-20-909,20-1209</p> <p style="text-align: center;">Petition for Writ of Certiorari</p>
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I. Questions Presented

1. Under 45 CFR § 164.524 does the Petitioner get to have the Right to his own Medical Records after they are subpoena by the Petitioner, and when those records are not given to the petitioner by the Doctor so they can be used for Disputable Facts? (yes)
2. Does the Petitioner get to have his Bill of Rights of Due Process and the Right to cross Examine Witness under the 5th, and 14th Amendment? (yes)
3. Does § 1346 (FTCA) a Federal Statute permit for Private Parties to sue the United States.(yes)
4. Does the petitioner get to use his extra insurance he paid for when a work comp case is filed under the 9th and 14th Amendment? (yes)
5. Does the Petitioner get to have any Substantial Rights on State Constitution and Federal Constitution? (yes)
6. Does the petitioner get to call any of his own Witness? (Yes)
7. Does the petitioner have Constitutional Rights under the Bill of Rights, and when those Rights are violated can he bring those violations of his rights the error of the court to the United states Supreme Court? (yes)

8. Should Walker the Petitioner as in indigent litigant be granted the same rights as other when it comes to a Pacer Account and other case management system ? (yes)
 9. Does the petitioner have a Federal Right to challenge perjury evidence and statements made by the attorney Laura Hensley? (yes)
 10. Does the state have to follow their own Constitution, Federal Laws, Bill of Rights and South Dakota Codified Laws and independent medical examiner (SDCL) ? (yes)
 11. Must states following the National Electric Code(NEC) and OSHA for safe electrical Practices and enforcement and should power be turned off/lock-out tag-out during installation (1910.147 control of hazardous energy) ? (yes)
 12. Should the Abuse of Discretion standard be used when a lower court makes a discretionary Ruling ? YES)
 13. Is it a matter of law that the respondents need to answer the petitioners MSJ? (Yes)
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List of Parties

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceedings in the court whose judgment is the subject of this petition is as follows:

Names of parties

Clayton G. Walker	Claytongwalker4sdsenate@gmail.com
1736 E. Tallent st. # 4	ussenatecandidate@gmail.com
Rapid City SD 57703	Petitioner.

Freemans Electrical Services Inc.	
401 Maple Ave.	605-342-4099
Rapid City SD 57701	

United Fire Group (UFCS)	
118 2 nd Ave. SE	1-800-332-7977
Cedar Rapids IA 52401	

Boyce Law Firm LLP.
300 S. Main Ave.
Sioux Falls SD 57104

Attorney for Appellees
605-336-2424
Laura K. Hensley

United Fire Group, (Ufcs), CorVel, individual Capacity (Dawn Michele Jaffray, Randy

Allan Ramlo, Randy Lee Patten, Jon Paul Newsome, Sandler O'Neill , Christine Zetocka, Gordon
Clemons, Jim Michael, and Jennifer Richter, United States of America Unknown Federal Agents
Freeman's Electric Service Inc. Employees Cory Buckley and James Reichelt. Unknown Federal
Employees.

Clayton G. Walker will be referred to as the Petitioner, I , Walker, him, me, Appellant and the
plaintiff.

The petitioner Clayton G. Walker could not find his brief and had to start over due to his
disability when he was electrocuted by High Voltage of 277 volts in which he is suffering from
memory loss, brain injury and a shoulder injury, care was denied by the insurance and Walker is
asking the court to liberally construe this brief as to give substantial justice that is fair and
equal.

II. Petition for Writ of Certiorari

Candidate Clayton G. Walker is a resident in the Rapid City area of South Dakota, Walker
respectfully petitions this court for a Writ of Certiorari to review the order of the South Dakota
Supreme Court.

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V. Jurisdiction

Clayton G. Walker brings this court has appellate Jurisdiction on his case that involves a point of Constitutional and Federal law Petition for a hearing to the Supreme Court South Dakota. Mr. Walker invokes this court jurisdiction on his Bill of Rights and under 28 U.S.C. § 1331 § 1251, having timely filed this petition for Writ of Certiorari within the time allowed. The court has jurisdiction over this action under 42 U.S.C. . This court has Jurisdiction Under 28 U.S.C. § 129. Fed. R Civ. P 4 under article III of the United States Constitution. Under Article III, § II of the Constitution establishes the Jurisdiction (legal ability to hear all cases) of the Supreme Court. The court can hear the case on Appeal and has appellate Jurisdiction on almost any other case that involves a point of Constitutional and or Federal Law. *please See: Motion/Petition Review of Substantial Rights!*

The Plaintiff is taken Pursuant to 28 USC §1257 (providing for the Direct Appeal to the Supreme Court of the United States Supreme Court. And Clayton G. Walker also appeals to the Federal District Court on Federal Questions within the Complaint that's was raised in State Court, under the 9th Amendment of the United States Constitution.

Clayton is Asking the Court to liberally Construed under Fed. R. Civ. P. Rule 12, Rule 8 and under 29 CFR § 1620.34, for Substantial Justice, and disregard of error. ¹

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- 1 Pro se Pleadings are to liberally construed. See *Martin vs. Overton*, 391 F. 3d.710,712 (6th Cir.2004) citing *Haines vs. Kerner*, 404 U.S. 519,520-21, 92 S ct 594,30 L Ed 2d 652(1972) *Herron vs. Harrison*, 203 F3d 410, 414 (6th Cir. 2000) (pro se pleadings are held to "an especially liberal Standard"); Fed. R. Civ. P. 8(f) (all pleadings shall be construed as to do substantial Justice").

I Want the court to review the decision of South Dakota Supreme Court, the DOL Administrative Law Judge & the Circuit Court Decision. See Appendix 1,2,3,4,5,6 - Appellate #29601 SD Certified mail Receipt 7021 0950 0000 6091 5557

*CV-20-799
Dep. of Labor.
→ Liberty Construction
Appendix #7*

Statement of the case

Clayton G. Walker the appellant seeks not be disabled for the rest of his life as care can still be given. Care was denied ab initio after Dr. Nelson recommended and a referral to the Mayo Clinic. See SC-5 The Appellees refused to send Walker for his brain, electrocution, head and shoulder injury after being electrocuted by 277 high voltage, blacking-out and falling down an 8-foot ladder landing on a concrete floor at BHSU working overtime on June 1st 2019. Electricity burned a hole in his right hand traveling and burning across his chest, lungs and heart than burning another hole in his left hand as the electricity left his body from falling. What Walker is asking of the Supreme Court of South Dakota is for equal treatment of the laws under State Statute, the United States Constitution and the South Dakota Constitution, as the most basic rights in litigation were ignored or skipped over & with the Appellant Court (7th Judicial Circuit Court) Administrative Dept of Labor (DOL). Walker wants the care to continue as it all was not given by the respondents. Walker wants to focus on his recovery and treatment, not more litigation, as Laches Doctrine could apply to equitable relief. The court erred on Walkers Substantive Rights, and Constitutional Rights of getting a fair hearing in both Circuit Court and with the DOL, not receiving the treatment recommended by a Dr. Nelson sets a bad example on future litigation, they broke the law as the circuit was not protect and the Appellant was left alone while the supervisors went to watch the Woman's basketball camp/tournament. Walker believes the action was an intentional Tort but without an administrative hearing Walker could not bring the parties or doctors in to testify.

Statement of the Issues

Intentional torts are wrongful acts done on purpose to the petitioner. But the person does not need to actually mean harm, but the petitioner ends up hurt anyways, such as a prank or the

defendants definitely meant the harm but walker never got a chance to call any witness. The Appellees only address the issues of the Circuit Court, and ignored all other rights with the DOL.

I. Whether the Order of Dismissal is Unappealable: (the dismissal is appealable for error and abuse of discretion, plain error and more) The Circuit Court dismissed Walker's appeal on the issue that the law states that only final decisions are appealable, but the law states that any Decision or Final Order may be appealable that "upon any appeal under this section all intermediate orders or decisions affecting substantial rights may be reviewed. Please review all SDCL and Constitutional law that Walker stated in his briefs and how the Supreme Court can review for errors. II. Whether, under SDCL chapter 1-26, the Circuit Court properly dismissed for failure to follow the rules: (the appellant did ask for the court to transmit the record, did ask for scheduling order, status hearing and more among some of the most basic rights, Rena Truman the head clerk and the DOL failed to properly follow the law in transmitting the record. The Appellees never made themselves available or to object to any motions that the Appellant filed. All the parties were served, the question is why did the Appellees choose not to have representation, they knew about the appeal because the parties also got regular posted US mail about the Appeal. As seen in the record of the Circuit Court. Walker did file an injunction to get his records and wrote letters about seeing other cases of work comp as they are not placed online. See Motion for use of case management system on page 844 of Circuit Court Walker motioned the court to use the same case management system to view cases the same as attorneys use a lot of walker motion were ignored or skipped over. Please see page 5 of the Alphabetical Index. Walker filed a motion for a scheduling order and was told over the phone that Laura Hensley was the Attorney for the Appellees but the Attorney would not reply to Walkers email about representation Walker filed a motion to know who the attorneys' are for the Appellees see 929 in

circuit court records. The most basic rights of fairness under the 5th 9th & 14th Amendment of the United States of America, I had to suffer while the courts ignored Walker Motion and for Declared Emergency.

- A. The Order of Dismissal, the Appellant did follow procedures, he asked for a scheduling order, appellant asked for the docket to be transmitted, he asked for a status hearing, asked to have the same access to cases as attorneys use, and many more, the appellees wants the court to only focus on one small part of the record, but so many basic rights were violated, please look at all the motions walker filed with the Circuit Court.
- B. The certificate of service was served on the 23 of March 2021, and the court does have a couple of days as the first day does not count. Walker did file a timely motion and the court granted petition for allowance of Appeal in 29601 granted on April 19th 2021
- C. Allowance of Appeal in 29601 granted on April 19th 2021.
- D. In Walkers Table of Authorities he states 44 SDCL Statutes that protect him and the appellees stated 9 SDCL Statute, and 24 cases vs the appellees 8 cases.
- E. Walker needs to be able to present his side of the case and get the medical care recommended.

Argument is that the appellees never asked for judgment in the circuit court, never had an attorney represent them. Ignored Walkers MSJ in both the DOL and circuit court. And the most basic rights were violated and ignored in both the circuit court.

Standard Review

- I. Standard review, the Supreme court does not have to use a standard review but can leave and deviate from any standard review. The court could use Clearly Erroneous Standard of Review. Walkers' rights were clearly erroneous by the court. SDCL § 15-

6-12 all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by SDCL § 15-6-56, 29 CFR 1926.416(a)(1) employees are not permitted to work on any part of an electrical power circuit system unless its protected, SDCL § 15-6-34 in the production of documents, evidence hearing 58-12-43, SDCL § and more as I'm only allowed 16 page reply brief, please see appellants brief. The court could use the Standard Review of De Novo "*Wyman vs Bruckner*, 2018 S.D. 17 ¶ 9, 908 N.W. 2d 170, 174 (quoting *Heitmann vs. Am Family mut ins. Co*, 2016 S.D. 51 ¶ 8, 88 N.W. 506, 508) the supreme does affirm a MSJ when no genuine issues of material fact exist, but in walkers case there is a lot of general issue of material facts exist his witness, his records, his doctors. Supreme court case # 28159 (quoting *Estate of Lien vs. Pete lien and sons, inc* 2007 S.D. 100 ¶ 9, 740 N.W. 2d 115, 119) A circuit refusal to grant additional discovery prior to awarding Summary Judgment is reviewed for abuse of discretion" *groves vs Miller* 2016 S.D. 9 ¶ 14, 875 N.W. 2d 34 (quoting *Stem Oil Co vs Boarder states paving inc* 2014 S.D. 28 ¶ 24, 848 N.W. 2d 273, 281) a circuit Courts Award or denial of cost and disbursements is also reviewed for an abuse of discretion. *McLaren vs Sufficool*, 2015 S.D. 19, ¶ 4, 862 N.W. 2d 557, 558. Because the DOL did rule on the bad faith action of attorney the Supreme court must send back & remand the case back. Lets look at plain error: the plain error standard of review applies to cases in which an error in prior proceedings necessitates a review on Appeal in order to prevent a Miscarriage of Justice. The Supreme court could use Administrative Procedure Act 1946, was an act to improve the administration of Justice by prescribing fair administrative procedure's applies to both the Federal Department and independent agencies.

- II. If the Circuit Court lacks Jurisdiction to Hear Walkers Appeal then what is SDCL § 62- Used for, the Appellant asked the Supreme Court to please clarify how the court did not have Jurisdiction over Walkers Appeal because SDCL § 62-7-19 and SDCL § 62-17-17 Appeal from Decision of the Department without petition for review. With SDCL § 15-26a-12 and SDCL § 15-26A-3
- III. The Seventh Judicial Circuit Court did not dismiss Walker Appeal correctly, the court wouldn't give him a scheduling order, and the most basic rights owed under the law.

The petitions herein provided for shall be liberally construed, so that the real intention of the petitioners may not be defeated by a mere technicality

Obstruction of Justice

18 U.S.C. § 1503 defines "obstruction of Justice" as an act that corruptly or by threats or force, or by a threatening letter or communications, influences, obstructs or impede, the due Administration of Justice, the Appellee did obstruct Justice when Laura Hensley wrote a letter to Judge Brown asking the case to be dismissed and giving advice is so unconstitutional, and did obstruct justice when she told ALJ that Walker cant refile after ALJ Faw said Walker could refile " Faw Stated without prejudice"

Substantial Rights & Cruel and Unusual Punishment

A Substantial Rights is an important or essential right that merits enforcement or protection by law, a right related to a matter of substance as distinguished from a matter of form. Substantial right means a right that the United States Constitution, the South Dakota Constitution, the statute

protects. Please see SDCL § 15-26A-3(2) An order affecting a substantial right, made in any action and prevents a judgment from which an Appeal might be taken. Cruel and Unusual Punishment Needs to end, this is cruel and Unusual of his political views and religious beliefs. Walker is suffering from uncontrolled extremely rapid twitching of the heart muscle. Cant place his arm over his head. The electrical current passed through Walkers body and is in need of a lifetime of care. The electricity did affect his heart and lungs, and the care was ignored, Walker should have gotten continued care because you might not see the damage for up to ten days. To deprive care because of his religious beliefs and political views is horrible. This Punishment does not fit.

Equal Justice Under the Law

The Meaning of the Equal Protection Clause has been the subject of a lot of debate, also known as the "Equal Justice Under the Law" the basis for Brown vs. Board of Education (1954) and due process clause of the 5th Amendment, the 9th Amendment and the 14th Amendment. The Equal Protection Clause itself applies only to State Courts and local Government, the Supreme Court held in Bolling vs. Shape 1954 imposes various equal protection requirements. The equal protection clause is part of the 14th Amendment to the United States Constitution the clause took in effect in 1868 "provides "nor shall any state... deny to any person within its jurisdiction the equal protection of the laws" this mandates that individuals in similar situations be treated equally by the law, Civil rights act of 1866. In 1965 Griffin vs. Illinois Justice Hugo Black a supreme Court Justice stated " there can be no equal justice where the kind of trial a man gets depends on the amount of money he has" please see Bad Faith Actions a decision by the South Dakota supreme court decision in Blanchard vs. Midcentury ins Co. 2019 SD 54

Supreme Law of the Land

The United States Constitution declares that Federal Law is the “ Supreme Law of the Land” as a result when a Federal Law conflicts with state or local Law the Federal law will supersede the other law or laws known as preemption. Justice Delayed is Justice Denied. In both the DOL and the Circuit Court the Appellees refused to reply and had no Objections to the Appellants MSJ see Forrest vs Kraft foods 285 8th cir 2002, cotex crop vs catlrett 477 1986 as a matter of Law they must respond and not rely on the pleadings only, the court rule in favor of the Appellant. The issues that can be consolidated into. Please see SD Supreme Case # 28067 1. With and without Prejudice meaning 2. Court error of the Circuit Court 3. Dol error on evidence hearing and not giving a hearing 4. Dol and circuit error on a Matter of Law 5. Attorney bad faith issues skipped over and must be resolved, and remanded back 6. The meaning of the word “or” -Final Judgment or Decision 7. The court error on Substantial Rights and Constitutional Rights 8. Clearly Erroneous

The Appellant did everything right as a pro se litigator during a National Pandemic, the courts ignored evidence, Walkers request for a evidence hearing, the Appellants MSJ, independent medical examiner, subpoenas for his own records and so much more of the most basic rights of giving equal access to justice, and as a Matter of Law the appellees must answer the Plaintiffs/Appellants MSJ, and can not just rely on the pleadings only.

Notice was given that the Plaintiff hereby Appeals to the United State Supreme Court of this Order of [(October 12, 2021 (Docket Number_?, unable to get as there is no open records or available to the plaintiff)] And the District Court of South Dakota Southern Division. Supreme Court Justices Mark Salter, Patricia DeVaney, Scott P. Myren, Janine M. Kern and Chief Judge Steven R. Jensen, denied the plaintiffs Access to Justice and the courts, Ignored State and Federal Questions, Constitutional Rights and Due Process, Walker had filed a timely

Appeal with the Court, as the Digital Voice recording of Supreme Court Clerk Sarah Gallagher stated everything was received and emailed before the deadline of Nov 1. 2021.

The Email to scclerkbriefs@ujs.state.sd.us and Sarah.Gallagher@ujs.state.sd.us are Supporting Evidence of a timely Appeal with certificate of service, photos of the envelopes on October 29. Walker had also Submitted a timely Appeal when sent by U. S. Mail on or around October 22, 21, & on or around October 27th 2021. No open records to get docket numbers yet, has been provide or available to the plaintiff. The Courts continue to Trample on the United States Constitution and the South Dakota State Constitution. Walker is respectfully asking the Courts to stop the Cruel and Unusual Punishment and Torture for is political views and religious beliefs.

There are not enough Justices in the United States Supreme Court despite an increase of + 400 % higher of cases filed than the number of cases first filed back in March of 1789. With only Hearing 48 cases During the 2021-2022 term, and 62 cases in the 2020-2021 term, the courts are overwhelmed with the number of cases it needs to hear.

The existence and maintenance of standards controlling the technique's operation Whether the theory or technique has attained "general acceptance" FRCP 12 B DOES Not apply in this case A verified complaint is the equivalent of an opposing affidavit for summary judgment purposes, when the allegations contained therein are based on personal knowledge. Davis v. Zahradnick, 600 F.2d 458, 459-60 (4th Cir. 1979) (holding that the factual allegations contained in a verified complaint establish a prima facie case under 42 U.S.C. § 1983, so as to preclude summary judgment). Accord Williams v. Adams, 935 F.2d 960, 961-62 (8th Cir. 1991); Conaway v. Smith, 853 F.2d 789, 792-93 (10th Cir. 1988); McElyea v. Babbitt, 833 F.2d 196, 197-98 (9th Cir. 1987); Lodge Hall Music, Inc. v. Waco Wrangler Club, Inc., 831 F.2d 77, 80 (5th Cir. 1987); Hooks v. Hooks, 771 F.2d 935, 945-46 (6th Cir. 1985).

The state workers compensation plan has failed to offer adequate care and benefits to the plaintiff. Work compensation leaves the plaintiff with no action for Federal Servant Rule when work comp ends due to constitutional violation the plaintiff can bring the claim to federal courts. Workers compensation statutes should not be used with exclusive remedy when intentional harm is done in the workplace. The breach of duty and compromise between employer and employee ended when the UFCS violated the plaintiff's constitutional rights. The employer failed to give adequate risk warnings with the insurance company they use. Freeman failed to disclose cruel treatment done by UFCS. Please review UFCS assessment Exhibit 1. A speedy process of claims is unconstitutional with work comp claims. It's unconstitutional to speed up the process for work comp claims under the 9th amendment leaving the plaintiff with none and very little care. The plaintiff needs to get the care he needs, and when a Doctor is recommending it, the payment of the bill has nothing to do with the patient receiving treatment or not. The plaintiff submitted circumstantial evidence of a transcript from third quarter meeting showing the violations that UFCS is involved in, these action violate walkers federal constitutional rights, see covid19 pandemic When political views and the cost of care becomes an issue, the plaintiff suffers. Because the denial of medical care due to cost, the system has failed the plaintiff and violated his federal Rights. Because of Walker's political views and religious beliefs the plaintiff has been denied the most basic care.

2.Removed work comp case from state court after admin appeal. Service 1 Rule 21 Fed.R.civ.P in wich work comp claims can be served. Rule 21 servalance may also be justified by consideration of judicial economy, case management, prejudice to parties and fundamental fairness.

"exclusive jurisdiction and diversity jurisdiction"

When Work compensation claims can be joined with tort claims against 3rd parties. When they involve:

1. Several liability
2. Common questions of fact.

Brooks v. Paulk and cope, Inc 176 F. Supp.2d 1270 Wingard v. Guillot (2008) Fed.R civ.P 20 (a) Williams v. CNH America LLC. 542 F.Supp.2d 1261 and 1265. Brooks v Paulk Constitutional Amendment Federal Questions. Can a 3rd party breach duty between employee and employer In Watson v. General electric Inc. 2012 5931884 The 11th circuit interprets § 1445 (c) is depriving federal courts of subject matter jurisdiction over work comp claims.

In Swift v. Tyson (1842), the Supreme Court held that the decisions of the New York state courts did not constitute the "state law" that federal courts must apply in diversity cases. Rule 20 requirements are met here because they at least involve the same questions involving common questions of fact, though one is for work comp the other is for tort claims. See Rumbaugh v. Winifred, is only appropriate when mis-joined. That plaintiff demands that the employer be joined. Crowe 113 F.3d at 1958 The claim is over 75,000, Plaintiff filled .See 28 U.S.C. § 1441& 1331, 1343 28 U.S.C. § 1346 United States as defendant, Federal Courts have Jurisdiction.

28 USC § 1441 (c) authorize servance when claims are removed to federal court. The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States. Caterpillar Inc v. Williams 482 US 386. 28

U.S.C. § 1331 C (1)a (June 25, 1948, ch. 646, 62 Stat. 930; Pub. L. 85-554, § 1, July 25, 1958, 72 Stat. 415; Pub. L. 94-574, § 2, Oct. 21, 1976, 90 Stat. 2721; Pub. L. 96-486, § 2(a), Dec. 1, 1980, 94 Stat. 2369.) 28 U.S.C. § 1367 (a) 28 U.S.C § 1332, 28 U.S.C. § 1343 and Article III of the United States constitution Claims form part of the same case or controversy when they "derive from a common nucleus of operative facts." *Ahearn v. Charter Township of Bloomfield*, 100 F.3d 451, 454-55 (6th Cir. 1996); accord *White v. County of Newberry, S.C.*, 985 F.2d 168, 172 (4th Cir. 1993) (recognizing that claims form part of same case or controversy if they "revolve around a central fact pattern"). Removal is improper under 28 U.S.C. § 1445 (c) under the 9th AMENDMENT. the cause of action does not arises under the state's workers' compensation laws, they arise under the 9th Amendment.

The federal courts will have jurisdiction over lower courts when a federal question of Constitutional or Federal law arises. In *Osborn v. Bank of the United States*, the Supreme Court, interpreted the meaning of Article III's grant of judicial power over cases "arising under" federal law. In 1875, Congress passed a statute that granted to the circuit courts jurisdiction over all cases "arising under the Constitution," and laws of the United States, and the limit was that the claim had to be over \$500, but in 1887 by a statute that raised the minimum amount in controversy to \$2,000. Almost all federal question suits represented the largest component of federal district court caseloads. In 1868, the states ratified the Fourteenth Amendment, which prohibited states from denying citizens equal protection of the laws and from depriving individuals of life, liberty, and property without due process of law.

In *Grable & Sons Metal Products, Inc. v. Darue Engineering* , it stated that a federal cause of action could be missing so long as an important national interest would be served by allowing the jurisdiction. In 1920s, the Supreme Court held that the Fourteenth Amendment

"incorporated" select provisions in the "Bill of Rights" to protect citizens against actions of state governments, and it opened avenues of suits for claims of constitutional rights. In *Brown v. Board of Education* 1954, which ordered the desegregation of public schools, this was a sign for the courts to defend the Fourteenth Amendment of equal rights. 28 U.S.C. § 1332 the role of the federal courts is to protect litigants against possible prejudice in state courts and about the proper balance between federal and state jurisdiction. In *Swift v. Tyson* (1842), the Supreme Court held that the decisions of the New York state courts did not constitute the "state law" that federal courts must apply in diversity cases. In *Caterpillar Inc v. Williams* there must be diversity of citizenship. (28 U.S.C. §1441)

Congress amended the Separable Controversy Act of 1866 with the Local Prejudice Act, which provided that any out-of-state party, whether a party, could petition at "any time before the final hearing or trial. To remove a case to a federal court of the fear of local prejudice in the state court. In the Jurisdiction and Removal Act of 1875, Congress replaced the Separable Controversy Act of 1866 with a provision that stated that either a plaintiff or a defendant who was a party to a separable controversy to remove the entire claim a part of. Federal courts could hear a controversy between citizens of the same state even when no federal question existed between them. Making the removal more difficult violates life liberty and the pursuit of happiness. Article III of the United States Constitution

Supreme Court's interpretation of which cases "arise under" federal law.

Several Liability common Questing of Facts to be decided by the Jury 1. A speedy Process of claims. 2. The tort was intentional.

Statutory provisions are not made to bar the plaintiff from common law suit when the employer acted to cause intentional harm. Denied benefits to raise profits and drive growth. The case can't be dismissed due to procedural errors. Dismissal under this violates the due process

clause under the Fifth Amendment. The 14th Amendment was ratified in 1868 uses the same words for the due Process clause as it describes the federal government should not deprive anyone of life, liberty and the pursuit of happiness. Americans with disabilities act. Federal question {Can the schedule for developing an updated worker's compensation model be accelerated?} No electrical permit was given or even applied for when work was being done at the University of South Dakota. The preponderance of evidence shows that the DOL administration hearing court can't handle the case due to the fact that perjury is not available

. The workers' compensation exclusive remedy provision serves as a compromise between employer and employee. The plaintiffs list all elements of negligence, torts and how they apply to the Respondence 1. The defendants owed a duty of care to the plaintiff. Freemans failed on training the plaintiff on using equipment and devices at work. Failed of taking reasonable care of their own and other's health & safety. Freemans failed at reporting hazards, near misses or inadequate precautions in the workplace. Freemans Failed on Co-operating with the plaintiff on matters of health & safety. 2. Freemans were negligence by not using a tag/lock on electrical panels. using a fraudulent insurance company. 3. This negligence caused the plaintiff harm of electrocutions, brain damage and shoulder immovability. 4. Freemans committed factual allegations that include intentional harm, under tort and breach of duty, care under statutes and all listed in this complaint. 5. Freemans caused harm by not informing the plaintiff that the employer was using a fraudulent insurance company (ufcs) 6. Ufcs must approve all doctor visit or the employee can't attend the care that is needed. By not allowing freedom of the doctor to give the patient the care that is needed violated the plaintiffs Constitutional Amendments. 7. UFCS created a Speedy process for work comp claims. see transcripts of 3rd quarter. Exhibit 2. Leaving the plaintiff with none and very little care. 8. A form of hazing was

used on the plaintiff creating an unsafe work environment that created damages.9. All factual allegations in the complaint are true against the defendants. 10. The defendants breached that duty of care needed by the plaintiff.11. Plaintiff suffered injuries Dizziness, Migraines, Wakes up dizzy and throws up, Lost when he wakes up, Some days are like a fog for him, Chronic migraines, Sensitivity to light all the time, Speech problems, Needs Physical therapy, bone out of place, Hard to swallow big bites of food, food specialist cant taste at times, Memory loss, Eye hand coordination, shoulder pain, Concussion, brain damage Education study/recall, Stress, Easily confused, Restore the nerve damage in his finger, he is easily in pain when he touches. Plaintiff these as a result of the incident.12. Because of these issues and injuries were a result of the defendants Damages.13. UFCS used their own doctor to evaluate the plaintiff and ignored all other doctors notes in the file.14. UFCS used a doctor evaluation that never actually did an evaluation on the plaintiff only used outdated notes.15. UFCS fraudulent denied benefits to raise profits and drive growth in the 4th Quarter.16. CorVel Denied the plaintiff the opportunity to go to the mayo clinic by talking with the doctor out of the decision he made. See exhibit 3 & 4.17. UFCS has a history of forcing the plaintiffs to a settlement and to deny future claims and liability when it is needed.18. The United States was negligence by not giving the doctor to have the freedom to give the care the patient needs.19. United States failed to establish a safe standard for electricians. 20. CorVel and Jennifer Richter Committed Negligence by not providing the plaintiff with reasonable care. 21. Freemans Intentional assault, and IIED by Calling the plaintiff derogatory names like Whitey. 22. The United States breach the strict liability of known dangerous activities, and all permits need to be filed and complete before work is done. 23. Dawn Michele Jaffray, Randy Allan Ramlo, Randy Lee Patten, Jon Paul Newsome, Sandler

O'Neill , Christine Zetocka, Gordon Clemons, Jim Michael, and Jennifer Richter, all used illegal practice to either help or grow profits from the companies they represent

Torts

When an intentional tort is committed by the employer the court must determine the nature of the act. Citizens v. Theodore daigal and brother 392 So 2d. 741 (1980) and when those acts are found to be intentional the plaintiff can bring the personal injury tort to federal court. Congress passed the Tort Claims Act in 1946 that made the United States liable for damages resulting from the negligence or injurious acts of its employees. Federal equity rules In Holmberg v. Ambrecht , the Court made clear that its holding only applies to cases in which the claims arose under state law in Guaranty Trust Co v. York (1945). In rights arising under federal statutes and enforceable in equity, state sovereignty was not present in Erie, leaving federal courts free to apply traditional federal equity rules. In Baker v. Carr 1962, the Supreme Court ruled that the constitutionality of state legislative redistricting could be challenged in federal court. A tort is a legal term describing a violation where one person causes damage, injury, or harm to another person. The violation may result from intentional actions, a breach of duty as in negligence, or due to a violation of statutes.

South Dakota Supreme Court Error on Substantial Rights and Abuse of Discretion

1.Motion for In Forma Pauperis 2.Court filed some motions as miscellaneous 14th Amendment
3.Motion for Service, Article IV Clause 2, Art VI.C2.14.Motion for Attorney SDCL § 16-19-22
5th and 6th Amendment5.Motion for Summary Judgment [Never Answered] SDCL § 15-6-566.
Judicial Notice SDCL § 19-19-201 (d)7.Motion to be Liberally Construed SDCL § 15-6-
30(d)8.Motion for Opportunity to be Heard SDCL § 19- 19- 201(e)9.Motion for Oral Argument
SDCL § 15-26A-810.Motion for Scheduling Order SDCL§ 15-6-1611.Petition for Schedule

Status Conference SDCL § 15-6-b12. Motion for Declared Emergency SDCL § 1-26-33.6, 13. Appeal on Circuit Court for review SDCL § 62-7-1914. Motion for Discovery and Subpoenas SDCL § 15-6-37 9A) SDCL § 62-2-615. Motion for Case to be Transmitted SDCL § 16. Motion for pacer account / 5th 9th and 14th Amendment 17. Motion to use Odyssey Case Filing System, § 15-15A 5th 9th and 14th Amendment, Article IV Clause 2, Art VI.C2.118. Petition for review SDCL § 62-7-3019. Motion for production and transmission of record SDCL § 1-26-3320. Motion for EN BANC Article IV Clause 2, Art VI.C2.121. Motion for Side Bar SDCL § 16-18-26 Guilty of Class 2 Misdemeanor 22. Motion for the clerk to prepare the record SDCL § 1-26-3323. Motion for Appellees to disclose council SDCL § 16-18-1324. Motion for Judicial Notice 29 CFR 1926(a)(1), 25. Motion for Schedule Order SDCL § 15-26A26. Motion for Oral Argument SDCL § 15-26A-8327. Motion for Reconsideration SDCL § 62-7-14, § 62-6-628. Motion to Liberally Construed Scheduling Order 29. Motion for EN BANC on Final Order, Article IV Clause 2, Art VI.C2.130. Petition for Clarification on Conjecture SDCL § 1-26-8.1

Walker filed over 30 Motion and the appellees never replied to any motion, the Court ignored all the motions walker filed and the respondents also missed a lot of motions filed in the DOL HF # 70 2019/20 Justice delayed is Justice Denied. The Seventh Judicial Circuit Court erred, and ignored the United States Constitution and SDCL. The Appellant filed multiple motion asking for a scheduling order, the Appellant did file his appeal on time there is multiple Affidavit of the Certificate of Service in the docket and even within the motion for reconsideration. To have the case litigated over the phone without replying to any motion is so unconstitutional. The appellant is entitled to present his side of the case and to be Slandered and defamation of character without giving the Appellant a chance to present his side. The Seventh Judicial Circuit Court can not just deprive Walkers rights and his side of the case.

The petitioner was denied an Independent Medical Examination, his expert witness was denied, the Appellants Dr. had a different of opinions and they were ignored. Unpaid Medical bills are affecting his credit. Examination was ignored, discovery was skipped, interrogatories was never answered, subpoenas ignored, as seen in the record. MSJ never answered. And false statements placed into the record. Slander and defamation of character was only used to influence the case. All controlling laws are within the records and the DOL never presented any Controlling laws. Defendants never exchanged discovery, cross examinations was ignored. There was a difference of opinions between the Appellants Doctors and the Appellees frequently used Doctors. False evidence was placed into the record and no Evidence Hearing was given. The Appellant needs a chance to present his side of the case, the Justice system is not just one sided. The 5th Amendment of the United State Constitution provides: " no person(...) shall be deprived of life liberty or property without due process of the law." The 9th Amendment states that all the rights not listed in the constitution belongs to the people. The appellant is not just limited to just the rights listed in the Constitution.

Conclusions

When law becomes oppression rather than a protection it is at that point that the court & the constitution has failed the petitioner. When law becomes oppression rather than protection it's not liberty and justice for all anymore. Work comp has to approve care it before It is giving this a violation of walkers constitutional rights. The petitioner alleges that all factual allegations are true. The plaintiff Respectfully request to Grant the petitioner injunctions and the medical care that he needs. Legal liability becomes an issue when benefits are denied once started. The court can't punish the plaintiff because of his beliefs, Walker attempted to work with the department of labor but they are non-compliance. Do to new management and retirement. The Department of

Labor. wont even hold the statue of perjury when someone lies under oath in administrative hearing from the DOL. These statues give the employer immunity, and leave the employee(the plaintiff) with limited compensatory relief and no fellow servant rule. It is clear that under these statutes when the employer act's negligent the only remedy is the workers compensation claim. The statutes are less helpful and they become barriers for the plaintiff. That the statutory provisions are made to bar the plaintiff with exclusive remedy provisions but when those benefits are denied the compromise between the employer and employee is forfeited in regards to exclusive remedy. The exclusive remedy provision in a workers' compensation insurance policy states that a worker can't sue an employer for a work-related injury as long as they are receiving benefits from workers' comp but when those benits establishes a breach of duty, the plaintiff is entitled to bring a suit of an intentional tort that caused 5he harm. Clayton is protected by the 1st amendment of the united states constitution. When an intentional tort is committed by the employer the court must determine the nature of the act. Citizens v. Theodore daigal and brother 392 So 2d. 741 (1980) and when those acts are found to be intentional the plaintiff can bring the personal injury tort to federal court. Federal question The schedule for developing an updated worker's compensation model has been accelerated. Statutory provisions are not made to bar the plaintiff from common law suit when the employer acted to cause intentional harm. The united states constitution outshines any state or federal law. The 9th Amendment The 9th amendment is to protect citizens of the United states. United States Constitution is the section of the Bill of Rights that states that there are other rights that may exist aside from the ones explicitly mentioned, and even though they are not listed, it does not mean they can be violated. I'm not going to have my medical treatment be determined because of my political views. The 14 amendment states that everyone is granted equal rights under the law. When the defendants are

left with no rights for servant rights, medical care and benefits, the system has failed. This is like saying police controls dr. And librarian controls mechanics. The doctor Must have freedom to give the care the patient needs If losses were to occur by employer the employer would sue insurance for a violation of contract. Workers comp. Because it was ufcs that denied care and was negligence Preponderance of evidence in the third quarter UFCS talks about how settling early you can settle for less preponderance of evidence shows us that they are making people settle for less. The Plaintiff attempted with three different attorneys to help restore walkers care but was told that for what the outcome would be it's not worth their time. The plaintiff isn't seeking all or nothing relief with these Injunctions, only if the court can rule on some while others go threw the court process that would be great. It is a matter of law that the Appellees must answer the Appellants Motion for Summary Judgment, Appellees ignored both in the administrative court and in the Circuit Court. Both courts failed to give the Appellant equal access to justice. Judgments SDCL § 62-7-19 plain English?, it states that an appeal from any final Order or Decision. The SDCL § 62-7-19 reads as the following : Any employer or employee may appeal to the circuit court pursuant to chapter 1-26 from any final order or Decision of the Department of labor and regulations which arises under the provisions of this title. Upon any appeal under this section all intermediate orders or decisions affecting substantial rights may be reviewed.If the legislature would remove the word "or" it would be plain English, but with the word "or" it is the Decision or the Final Order. The same word is used in the first part any employer "or" Employee. In fact, the word "Or" is used three times to describe a an option. The Circuit Court and DOL refused to transmit the record and file with an alphabetical index. See SDCL§ 1-26-33 Laura Hensley did not inform her clients that she wasn't representing them? All parties were served multiple notices What a criminal way Laura Hensley used to

litigate on how to deceive the court, the Appellant, United Fire Group (Insurer) and Freemans (employer.) Equal Justice under the law. see the 5th, 9th, and 14th Amendment, My constitutional right have been violated without getting a hearing, Walker did protect his rights for Appeal, In the interest of Justice the court must remand the case back as motions are left pending, the courts left motions open, the Covid-19 caused a number of limitations that were already limited towards the Appellant, Walker did the best he could with what he had available for a head injury. The court must determine what is meant by the terms of "with" and "without prejudice." ,SDCL§ 62- 7-14 Appointment of impartial Medical Examiner, end Walkers suffering, he cant place his arm over his head and needs therapy for his brain injury. Laura Hensley makes some critical mistakes of perjury and obstruction of Justice. In her Appellee's Brief on page 14 at ¶ 1 line7she states "Appellees were unrepresented by counsel in circuit court" please see A-AB-4 & SC-1she states on 7/30/20 "my clients has authorized me to make a settlement offer of 5,000 for a full and final settlement of all claims, including a dismissal of second petition for hearing and any appeals." She was representing them on 7/30/20, so service was completed see SC-6, SC-10. Then the Appellees should have answered Walkers MSJ Docket on page 837 in Circuit Court and the other motions filed. There was no response from Laura to the issue "dismissed without prejudice" only a response from ALJ See exhibit k-4, Appendix 57 on Appellees brief, the numbers do not match up on the 3 different copies Walker got from the DOL. Please grant Oral Argument as so many other things went wrong with the record! Laura Hensley was representing her clients on 7/30/20 & for Laura to deceive the Supreme Court is unjustifiable. Grant Walker pain and suffering for the time that should have been spent at the Mayo Clinic. Grant the petitioner demands, reverse and remand the case back to the trial court for a fair hearing, grant MSJ as a Matter of LAW,

It was the United States Supreme court Justice Hugo L. Black that once said "a mans trial should not be determined by the amount of money he has in his bank account." Walker can't afford a pacer account to review the case laws and the cases that the Respondents have placed into the Record in the lower court. The Court needs to be fair and open for all parties and not just the ones that have money or that works for the state. The court has significant discretion to take account of the special circumstances that often arise in Pro Se litigation situation. See Haines vs Krener 404 U.S. 519 (1972) the claims should not be dismissed without affording him the opportunity to present evidence on his claims. Mr. Walker the Petitioner, should get the opportunity to offer proof and facts with discovery.. The Federal Rules of civil Procedure are governing proceedings in the united states district courts their purpose is to secure the just, speedy and inexpensive determination of every action and proceedings these rules were first adopted by order of the Supreme court in 1937, last amended in 2020 to take affect December 1st of 2020. Walkers briefs must be liberally construed and (not just say they will be) it must happen. See Rule 12 (b) Disregard of error or defect.

Clearly Walker is at a disadvantage here not being able to read court cases like attorneys get with a pacer account, with Walker being denied medical treatment for his disability that the court overlook in his 20-1209 case about his suffering. The Court has the opportunity to change and help people during this pandemic with litigation and giving equal access to Justice. If we use the analogy I'm a surgery doctor the medical board says I can preform surgery on people. You can read the outcome of prior surgeons but you cant get to know how the doctor got to that outcome. Now this is not hypothetical, Walker must have a pacer account to view the cases and how they came about. Walker must receive the courts permission first according to the website of pacer to view cases. Walker must be able to how the court got to its opinion. He cant just

become a surgeon without training the books, access to other Doctors. So it is the same as walker cant litigate without having a pacer account. Walker cant go to his district court and search by topic, and the law school is a 5 hour drive away. The petitioner is intitled to the Federal Rules of the court including Federal Rule 8, 26, 39,50. The plaintiff did call the Public Access to Court Electronic Records (Pacer), and talked with Angelica she stated that they have no programs for indigent people. The plaintiff would have to call Angelica, in as a witness, if the Defendants challenge that statements as "hearsay."

Walker still finds this to be Unconstitutional, unfair and not equal treatment under the 14th Amendment. There are a lot of disputed facts that needs to be reviewed. The court errored, and a remand is needed to make the appellant whole again. This is a case about how Walker the appellant got electrocuted by high voltage of 277 voltage, (an intentional tort) Walker blacked out, fell off an 8 foot ladder, landing on his shoulder and head on a concrete floor. This occurred during a basketball game tournament with over 1,000 witnesses at a SD college. BHSU had no electrical permits (unconstitutional)and a rat's nest of illegal electrical wiring within the building's ceilings. (Don't overlook this) This case is about human rights and about how medical care is needed when directed by a doctor, it shouldn't be ignored or denied by an insurance company (UFCS). Walker never reached maximum medical improvement because care was denied ab initio (from the beginning).The ALJ refused all of walkers treating physicians notes, subpoenas, a private independent medical examination, copy of the record and depositions. Benefits need to be restored and what is owed to make whole again, and the cost of surgery. .Walker preserved the issues of bad faith efforts for appeal. Bad faith is determined at the time the claim is denied. See Blanchard vs. Mid century ins. Co 2019 SD 54. ALJ Michelle Faw ignored multiple issues and attempts.I asked about reading the complaint because the case

should be liberally construed. Haines vs Kerner. The court becomes biased when not liberally construed issues on appeal, for someone that was electrocuted, suffering from head trauma, dead tissue, damage to shoulder limitations on mobility. Walker is not an expert attorney and should be getting treatment not litigation. Discovery was ignored, with the most basic rights and the case has a lot of disputed facts after Walkers MSJ was ignored. Walker is also entitled to bring his own private medical examination. Stop the suffering, the court took an oath to uphold the United States Constitution and to ignore Walkers' Constitutional rights to equal treatment, would be biased, shameful and discriminatory. (14th Amendment.) The Court can liberally construed Walkers Case and motions without giving any legal Advice. Should someone(Walker) in this condition be fighting in court or given medical treatment when recommended. To hide paystubs in a locked office/drawer, is something that should not be overlooked. Especially with direct deposit. Reading the docket/record the court will see that medical care was denied ab initio, Walker did bring up issues before the claim was denied; ignored litigation and how the ALJ ERRORED, discovery was ignored, depositions never answered, subpoenas ignored, Walkers MSJ ignored, denied walkers medical treatment after a dr. Recommended that Walker go to the Mayo clinic, denied appellants motion for independent medical examination, Perjury by appellees, Rules of Evidence and attorney. Walker motion to have the case sent to the proper court for jurisdiction in A 3rd party claim and a Federal Question. Appellee Ignored MSJ among a number of other issues. Walker is intitled to the constitutional right protected by the 5th 9th and 14th Amendment. As seen in the file/Docket.. The case requires Walker to become a legal expert attorney.

let Walker use the insurance he bought from his employer.

Reason for Granting the Writ of Certiorari

The Petitioner' has a Motion to be Heard/Oral argument for Judicial Notice under FEDERAL RULES OF EVIDENCE and Fed. R. Civ. P. Judicial Notice of Adjudicative Facts Rule 201 (e). If the Court takes judicial notice before notifying a party, the party, on request, is still entitled to be heard. The plaintiff has made that request. The plaintiff can't view Harvey v. Piersol 03-4002. Pro se pleadings are to be liberally construed see Martin v. Overton, 391 F. 3d 710,712. The defendants have no basis or authority to influence the Judges decisions without a motion to the court. To have pleadings decided over letters directly to the judge is unconstitutional. The motion for MSJ by defendants was premature discovery need to take place. The plaintiff deserves his day in court. There was a legal dispute the defendants have no authorities for the legal support for motion on MSJ. The plaintiff objects that the facts are not supported by admissible evidence. In Muller v. Oregon 1908" the law that limited woman to work only 10 hrs. a day. That ruling was against this law as due to inequality just as segregation to independents. In Reed v. Reed 1971 was an equal protection case. In the case of Marbury v. Madison 1803 the court recognized as having the power to review all acts of congress where constitutionality was an issue and Judge whether they abide by the constitution. It violates Walkers rights that are protected by the 9th 10th and 14th Amendments of the United States constitution. Under the Equal Protection clause, as part of the 14th Amendment. The clause, which took effect in 1868, provides that no state shall deny to any person within its jurisdiction "the equal protection of the laws. . The court has significant discretion to take account of the special circumstances that often arise in Pro Se litigation situation. See Haines vs Krener 404 U.S. 519 (1972) the claims should not be dismissed without affording him the opportunity to present evidence on his claims. Mr. Walker the plaintiff, should get the opportunity to offer proof and facts with discovery.

Wherefore grant the Writ of Certiorari, and have the South Dakota Supreme Court send the case #29601 up to the United States Supreme Court for review for his Bill of Rights violation

Dated this 9th day of January 2022

Clayton G. Walker

Clayton G. Walker 22

Review
Substantial
Rights

Resubmitted on Feb. 18th 2022

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

<p>Clayton G. Walker</p> <p style="text-align: center;">Petitioner,</p> <p>Vs.</p> <p style="text-align: center;">Freemans Electric Service Inc. and</p> <p style="text-align: center;">United Fire Group (UFCS), Ect. al.</p> <p style="text-align: center;">Respondents.</p>	<p>Case # _____</p> <p style="text-align: center;">Proof of Service And Affidavit</p>
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I Clayton G. Walker, do swear or declare that on this date, served the enclosed Motion to leave to proceed in Forma Pauperis, a Petition of Substantial Rights and the Petition for a Writ of Certiorari on each party to the above proceeding or that party's Defendants, and on every other person required to be served, by depositing an envelope containing the above documents in the United States Mail by certified mail first class postage prepaid within 3 calendar days to: /; the Supreme Court of the United States, Att; the clerk at 1 First st, Washington, DC

20543 7021 0950 0000 6091 7193 and to Freemans Electrical Service
401 Maple Ave Rapid city SD 57701 # 7021 0950 0000 6091 7209 . Solicitor
General of the United States at 950 Pennsylvania Ave, NW Washington DC 20530 by CMS. I
declare under oath that all is true to the best of my knowledge and is correct to the best of my
knowledge. Executed on this 18th day of February 2022

Clayton G Walker

Witness JB

Clayton G Walker Claytongwalker.com

This brief Contains 8,982 Words and 54,232 Characters by office Word Count,