21-7968 ORIGINAL

NO.

IN THE

SUPREME COURT OF THE UNITED STATES

In Re THURMAN JEROME BROWN

Petitioner,

V.

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent.

On Petition for Writ of Certiorari to the

Supreme Court of the United States

PETITION FOR WRIT OF CERTIORARI

THURMAN JEROME BROWN, PRO SE

1763 2ND AVENUE, APT 34K

NEW YORK, NEW YORK 10128

P: 1-347-782-4097

E: Thurmanbrownconsultant@gmail.com

QUESTION PRESENTED

The full legal effect of the U.S. Supreme Court's refusal to grant certiorari is often debated, it is thought not to creates no binding legal precedent and does not reflect the Supreme Court's agreement or disagreement with the lower court's decision. Rule 10 of the Rules of the Supreme Court specifically states: "Review on writ of certiorari is not a matter of right, but a judicial discretion. A petition for writ of certiorari will be granted only for compelling reasons." This petition is the very essence of a compelling reason to grant Certiorari, in that, the U.S. Supreme Court, nor state or federal courts, cannot utilize 'judicial discretion' to confer jurisdiction upon a void criminal process that lacks subject-matter and personal jurisdiction over the petitioner, without creating 'binding legal precedent' in the form judicial slavery: "neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction. Congress shall have power to enforce this article by appropriate legislation."

In Thurman Brown v New York (U.S. Supreme Court Docket No.98-9916), the U.S. Supreme Court appropriated Congress' powers, within the framework of extrajudicial litigation (knowingly or unknowingly); in that, the Court conferred jurisdiction where none existed, creating binding legal precedent. The Supreme Court marked the boundaries of authority between state and nation, state and state, and government and citizen, therefore, the Supreme Court of the United States, is the final court of appeal and final expositor of the Constitution of the United States, so when the United States Supreme Court bestowed jurisdiction on a void criminal judgment, logic then follows that, not only can this judicial

discretion create 'binding legal precedent,' it determines 'the full legal effect of the U.S. Supreme Court's refusal' to grant certiorari on this particular void criminal processes; since the Supreme Court cannot supplant jurisdiction where none exist and cannot make an annulled proceeding lawful, subsequent litigation and procedures are all based federal conspiracy. The Chief Justice and Associate Justices, individually and collectively, overturned 13th Amendment precedent via the judiciary under Rule 10.

The full effect of [t]his decision on proceedings that are absent subject-matter and personal jurisdiction, and the subsequent § 1983 defense of defendants' action(s) in the civil litigation, including but not limited to Justices of the Supreme Court, that is now before this Court for a second time, on Certiorari, aides and abet New York State's Unified Court System' pattern and practice of re-prosecuting void criminal judgments. It may be possible that New York State Court committed fraud upon the United States Supreme Court, without the Court's awareness, that is a possible defense, however, binding legal precedent in error is still law. The Court is fully briefed on the matter now. And it is [t]this Court's responsibility to set the record straight, under the law or as defendants.

State Court judiciary orchestrated fraudulent proceedings and processes on a void judgment(s) with full weight of the law by repurposing several void criminal actions that were terminated and sealed by State Court Judges Victor M. Ort and Donald P. DeRiggi, pursuant to New York Criminal Procedural Law § 160.50, on October 7, 1996, in favor of the accused; chattel judicial slavery continued for 12 years 9 months and 17 days. Federal Courts, the Department of Justice (Supreme Court defendants were represented by DOJ), and all other relied on extrajudicial proceedings to seek and establish dismissal criteria.

Petitioner has standing to pursue litigation including injunctive relief sought against Supreme Court defendant for the violation of petitioner's Human Rights. The injury continues unabated in every area aspect of petitioner life.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Thurman J. Brown, slave number 96469-99, request the issuance of a writ of certiorari to review the Judgment of the United State Court of Appeals for the Second Circuit.

DECISION BELOW

The decision of the United States Court of Appeal for the Second Circuit is attached hereto at APPENDIX A & B

JURISDICTION

This Court's jurisdiction is invoked under 28 U.S.C. § 1254.

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[ ] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

[ ] reported at _____; or,
[✓] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the United States district court appears at Appendix C to the petition and is

[ ] reported at _____; or,
[✓] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

[ ] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

JURISDICTION

[X] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was ~~3-10-2022~~ (B) 01-26-2022

[ ] No petition for rehearing was timely filed in my case.

[X] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: 03-08-2022, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[ ] For cases from **state courts**:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

[ ] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

FEDERAL RULES INVOLVED

Federal Rules of Civil Procedure 12 (b) (O), construing the complaint liberally, accepting all factual allegations in the complaint as true, and drawing all reasonable inferences in the plaintiff's favor.

This standard requires clear delineation of "all reasonable inferences" the district court reached from factually accepted claims. The District Court's findings that the claims are time barred and that the holding in Rooker-Feldman attaches to the counterfeited void proceedings and not the original criminal actions that were terminated pursuant to N.Y.C.P.L § 160.50, on October 7, 1996.

Construing the complaint liberally, accepting all factual allegations in the complaint as true, and drawing all reasonable inferences in the plaintiff's favor, has to have some tangible meaning.

STATEMENT OF THE CASE

On September 19, 1996, Detective Carl Re and William Lanoue came to petitioner's job located at 46-23 CRANE STREET, LONG ISLAND CITY, NEW YORK 11101, and arrested petitioner under the false pretense of an alleged Parole violation in the state of Tennessee, according to Lorraine Pasieka, the Controller at Exhibit Corporation of America, "they told me they were looking for Thurman Brown. They said he had violated his parole from Tennessee. They Informed me they could not disclose why he was on parole because they themselves did not know". The shop foreman informed petitioner to report to the receptionist area and taken into custody and transported to the fourth precinct Baldwin, New York.

After several hours of defenseless interrogation by Detective Carl Re and William Lanoue, petitioner was turned over to another set of law enforcement officers and transported to a central booking location for fingerprinting and formal arrest procedures. On September 20, 1996, petitioner was shackled up to others and transported to Nassau County First District Court for formal arraignment (In state court poor defendants have a deferred right to counsel, not arrest contact assistance of counsel, so for the purposes of legitimacy post undefended interrogation, a stand in public offender is temporarily assigned to the poor for the formal purpose of sixth amendment façade, a prop, a tactic that passes 6th Amendment criteria).

Petitioner stood before arraignment court and invoked right to appear before the Grand Jury within 72 hours, to ensure speedier assignment of counsel to combat advantageous, defenseless adversarial arrest access. On September 24, 1996, petitioner was presented to the Grand Jury, prior to petitioner's testimony, The Court assigned Nassau County Legal Aid Attorney Meryl Berkowitz, to represent petitioner 4 days after arrest. Defense counselor came down to the bullpens or holding cells and ceremoniously announced that she was my assigned public defender, reminded me of my prior(s) arrest, as a justification for waiver to appear before the Grand Jury (in other words, buy time for the prosecution). I was not "waiving" an opportunity to be informed of the charges and evidence against me. Petitioner testified before the Grand Jury on September 24, 1996.

Clandestine judicial proceedings including State Court Judge Victor M. Ort, Nassau County District Attorney's Office, Meryl Berkowitz and Nancy Garber of Nassau County Legal Aid Society:

An undisclosed judicial proceeding was held that did not include any form of defendant awareness that facilitated a binding agreement between the Court, Prosecution, so-called Defense, and the State.

On October 7, 1996, State Court Judge Victor M. Ort, terminated and sealed criminal docket numbers: 29226/96, 29222/96, 29223/96, 29225/96, pursuant to New York Criminal Procedural Law § 160.50, in favor of the accuse. The severed lone count was subsequently resolved on November 4, 1996, by State Court Judge Donald P. DeRiggi,who also in a secret proceeding, terminated and sealed docket criminal docket number: 29224/96, in favor of the accused. By operation of law, New York Criminal Procedural Law § 160.60, all these criminal actions are now a nullity, void judgments (Petitioner was not made aware of these exonerations until July 12, 2002, by way of The Freedom of Information Act (See Appendix D).

The termination and seal order are case(s) and defendant specific, however, the sex of the accused ("the petitioner") is described as "female" instead of "male" and petitioner' date of birth was switched from "April 16, 1965" to "April 16, 1955". Petitioner was represented at the time by Nassau County Legal Aid Society, Meryl Berkowitz, however, on the secret order petitioner is listed as attorney of record.

This misinformation, by operation of law, and in furtherance of the conspiracy to re-prosecute void judgements, barred petitioner from being released from the Sheriff's Department and restored to status prior to arrest and prosecution, pursuant to N.Y.C.P.L. § 160.60.

§ 160.50 Order upon termination of criminal action in favor of the accused, puts the following state actors at this secret meeting, by statute:

"Unless **the district attorney** upon motion with not less than five days' notice to **such person or his or her attorney** demonstrates to the satisfaction of the court that the interests of justice require otherwise, or **the court on its own motion** with not less than five days' notice to such person or his or her attorney determines that the interests of justice require otherwise and states the reasons for such determination on the record, the record of such action or proceeding shall be sealed and the clerk of the court wherein such criminal action or proceeding was terminated shall immediately notify the commissioner of the division of criminal justice services and the heads of all appropriate police departments and other law enforcement agencies that the action has been terminated in favor of the accused, and unless the court has directed otherwise, that the record of such action or proceeding shall be sealed. Upon receipt of notification of such termination and sealing" (See "division of criminal justice service verification of termination at page 4-8 attached hereto at Appendix F).

As of October 7, 1996, all criminal actions against petitioner were in fact terminated in favor of the accused pursuant to N.Y.C.P.L § 160.50. There are no subsequent superseding indictments. The persecution continued void judgements. Phantom judicial proceedings with the full force of the law were conducted and ushered through the judiciary as People v Thurman Brown despite the invalidity of the criminal actions pursuant to N.Y.C.P.L. § 160.50 (which is controlling): Omnibus hearings, Voir Dire, Procedural Motions, Trial, Verdict, Judgment, Appeal affirmed (People v Brown, 258 AD2d 661, 2d Dept {February 1999}), Leave to Appeal to the New York State Court of Appeal denied (People v Brown, 93 N.Y. 2d 896, {April 1999}), Writ of Certiorari to the United States Court Supreme Court denied (Brown v New York, 528 U.S. 860, {October 1999});

all lower court proceedings were a sham, a charade given the full weight of the Law, while petitioner stood obvious and duly convicted of no crime. This is systematic judicial racism perpetrated by the New York State Unified Court System. Civil litigation ensued and was entirely resolved against petitioner citing counterfeit state court determinations that lack subject-matter or personal jurisdiction.5.

2nd Circuit decision synopsis

On mandate issued on March 10, 2022, the panel somehow articulated that "we review de novo a district court's dismissal of a complaint pursuant to Rule 12(b)(O), construing the complaint liberally, accepting all factual allegations in the complaint as true, and drawing all reasonable inferences in the plaintiff's favor." Chambers v. Time Warner, Inc., 282 F.3d 147, 152 (2d Cir. 2002). A complaint must plead "enough facts to state a claim to relief that is plausible on its face." Green v. Dep't of Educ. of City of New York, 16 F.4th 1070, 1076-77 (2d Cir. 2021) (quoting Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)).

The 2nd Circuit analysis is without support in the record, as a matter of logic, the mere fact that the complaint was time-barred, contradicts "drawing all reasonable inferences in the plaintiff's favor" because the chief factual complaint is criminal actions were terminated in favor of the accused on October 7, 1996, and those actions were re-prosecuted without subject-matter jurisdiction. Federal Rules of Civil Practice, Rule 12(b)(O), requires the court to articulate facts that are in evidence to support its dismissal of complaint. Here, the District Court nor the Court of Appeals have contested the terminations in favor of the accuse which is the "claim to relief that is plausible on its face" as demonstrated in a "not for publication opinion and order" issued by the Honorable Judge Allyne R. Ross (E.D.N.Y.), dated December 3, 2007: The Court states in pertinent part: "As indicted, plaintiff submits evidence that several New York State indictments against him were dismissed pursuant to N.Y. C.P.L. § 160.50. See id. at 3-4. These submissions indicate that those indictments were indeed dismissed in October of 1996, id., and thus could not have formed the basis of his conviction in 1997" (00-CV-7182) (ARR).

The crucial inquiry here is the "basis of his conviction in 1997". The District Court and the Court of Appeals calculatingly ignored the basis for this section 1983, but claims in the same opinions

that, "*we review de novo a district court's dismissal of a complaint pursuant to Rule 12(b)(O), construing the complaint liberally, accepting all factual allegations in the complaint as true, and drawing all reasonable inferences in the plaintiff's favor*". Where is the support for District Court's dismissal on [t]he core-claim for relief? And, just as Judge Allyne Ross stop short of an investigation of the basis of "conviction in 1997" based on an *assumption* that the terminated indictments "could not have formed the basis" for the so-called conviction in 1997, District Court Judge Gary Brown snubbed the core-claim as well.

Rule 12(b)(O), demands that the Court accept the supported evidence "drawing all reasonable inferences in the plaintiff's favor." That accurately means that on October 7, 1996, Judge Victor M. Ort, terminated all criminal actions against the accused ("Plaintiff"), pursuant to N.Y.C.P.L § 160.50, full stop. Where is the district court's recognition of these determinations? Rule 12 (b)(O) requires the recognition of the core-claim to be articulated or dismissed based on facts not assumptions where deference has been destroyed by undisclosed procedural facts. Contrary to the 2nd Circuit' pro-defendant(s) reasoning, the reviewing Court (s) overlooks that Rule 12(b)(O) operationally, bars district court from "review[ing] the judgment of state courts" (which is petitioner's core-claim) (the holding in Rooker-Feldman). The October 7, 1996, judgment by state court judge Victor M. Ort, pursuant to N.Y.C.P.L § 160.50, terminating all criminal actions against the accused (The lone judgment that is legal, the core-claim), is a "factual allegation" that is controlling in the case at bar. Here, District Court and 2nd Circuit were obligated to raise the strongest arguments that factual allegation suggested, which must incorporate the holding in Rooker-Feldman, in terms of the judgment entered on October 7, 1996, pursuant to N.Y. C.P.L. § 160.50. It is not, therefore, no coincidence that district court buried recommendation the Court itself task Magistrate Judge with determining specifically, the basis for the conviction of

1997 (the core-claim). Did district judge reviewed magistrate judge conclusions, findings, and recommendations, and took it upon itself to construe defendants' pre-motion letter as a motion to dismiss? (March 10, 2022, Mandate at page 7, appendix C). It's a fair assumption as any that have been made by the Courts.

It's certainly worth nothing that the Court of Appeals claims that *"we review de novo a district court's dismissal of a complaint pursuant to Rule 12(b)(O), construing the complaint liberally, accepting all factual allegations in the complaint as true, and drawing all reasonable inferences in the plaintiff's favor"* is contradicted by the dismissal of the complaint as time barred.

In the complaint, petitioner asserted factual evidence that defendants fabricated void judicial proceedings, changed the sex (male to female) and DOB (04/16/1965 to 04/16/1955) on the Seal and Termination order, to help make possible fraud upon the Court. This is not a claim of false imprisonment. Petitioner was held in judicial slavery absent subject-matter jurisdiction and personal Jurisdiction, which was terminated on October 7, 1996, in favor of petitioner absent procedural due process. In dismissing petitioner's complaint pursuant to Rule 12(b)(O), the Court erroneously concluded, in the case at bar, that Section 1983 claims accrue "when the plaintiff knows or has reason to know of the injury which is the basis of his action" Pearl v. City of Long Beach, 296 F.3d 76, 80 (2nd Cir.2002) (quotation marks omitted). Here, it is the defendants' fraudulent activities of extrajudicial proceedings under color of law in every pleading up to and including this petition that has obstructed plaintiff view of injury. How was plaintiff to know that his judicial proceedings were in fact fraudulent? When the judiciary itself is the perpetrator of the fraud (***See APPENDIX G***).

Petitioner is being penalized because petitioner did not uncover the judiciary sanctioned fraud in time enough to do something about it. Is this the Circuit Court's final analysis on the question of time bar? Insofar as it may be, the Court(s) prowess at fabricating judiciary proceedings with the full weight of the law still cannot confer legal jurisdiction on void judgments. The injuries are reoccurring every time defendants asserts a fraudulent conviction in 1997, as a defense to this very petition for Certiorari. How then, can any court construe these issues as time-barred? A *void* judgment is to be distinguished from an erroneous one, in that the latter is subject only to

direct attack. A *void* judgment is one which, from its inception, was a complete nullity and without legal effect. *Lubben v. Selective Service System, 453 F.2d 645, 649 (1st Cir. 1972)*. Petitioner has no 1997, state court convictions. Petitioner's bondage was not a by-product of being duly convicted of a crime. Petitioner was subjected to judicial slavery that was ratified by the United States Supreme Court in 1999.

Reason for Granting the Petition

The full legal effect of the U.S. Supreme Court's refusal to grant certiorari is often debated, it is thought not to creates no binding legal precedent and does not reflect the Supreme Court's agreement or disagreement with the lower court's decision.

In Thurman Brown v New York (U.S. Supreme Court Docket No.98-9916), the U.S. Supreme Court usurped Congress powers in 1999, within the framework of litigation, the Supreme Court marked the boundaries of authority between state and nation, state and state, and government and citizen, therefore, the Supreme Court of the United States, was the final court of appeal and final expositor of the Constitution of the United States, when it denied judicial Certiorari on a void criminal judgment (**See APPENDIX H**). Logic then follows that, not only can this judicial discretion create 'binding legal precedent,' it determines 'the full legal effect of the U.S. Supreme Court's refusal to grant Certiorari' on a void criminal process that the Court knew or should have known had a lack of jurisdiction.

In this extraordinary case, since the court cannot confer jurisdiction where none exist and cannot make a annulled proceeding lawful, The Chief Justice and Associate Justices, individually and collectively, annulled sections of the 13th Amendment via the judiciary under Rule 10, [T]his decision, and the subsequent § 1983 defense of their action(s) in the civil litigation that is now before this Court for a second time, aided and abetted New York State's Unified Court System' pattern and practice of re-prosecuting void criminal judgments.

Compelling reasons exist for the Court to exercise its discretionary jurisdiction, because only this Court can address this issue. I am cognizant that many of the defendants are still on this Court who were part of the decision in 1999, I will not ask for you to recuse yourself from deciding this petition. The dye has been cast. I survived your consequential decision to enslave me. I am asking for my right to sue for emancipation compensation. And it is through this structural lens that we can measure the full effect of equal protection under the law and due process. The Courts' actions and inactions now resembles the 1857 Dred Scott case to the extent that the 1999 Supreme Court invalidated petitioner's right to sue for equal protection under the law in New York State.

Conclusion

Remand to the district court is required for further development of the record considering that termination of criminal record in favor of the accuse, pursuant to N.Y. C.P.L. § 160.50, on October 7, 1996, is within New York State Unified Court System, easily acquired, and verified. This Court cannot be afraid of sunlight. We correct our mistakes. That makes the Court humane.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Date: April 25, 2022

Appendix A