

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Larry Blakney #84750171 PRO-RE — PETITIONER
(Your Name)

SLED, HARTSVILLE S.C. POLICE DEPARTMENT
UNITED STATES OF AMERICA ET AL — RESPONDENT(S)
VS.

PROOF OF SERVICE

I, _____, do swear or declare that on this date, _____, 20____, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

S.C. LAW ENFORCEMENT DIVISION (SLED)	DEPARTMENT OF JUSTICE	AM #3616	T. SCARANTINO, COMPLEX WARDEN
HARTSVILLE S.C. POLICE DEPARTMENT	950 PENNSYLVANIA AVENUE		FEDERAL MEDICAL CENTER
155 WEST CAROLINA AVENUE			P.O. BOX 1600
HARTSVILLE S.C. 29550	WASHINGTON D.C. 20530		RAUTNER N.C. 27509

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 26, 2022

Larry Blakney
(Signature)

**Additional material
from this filing is
available in the
Clerk's Office.**

LARRY BLAKNEY #34750171 et al

APPELLANT

APPEAL NO. 21-7717

CASE NO. 5:21-CV-03071-FL

DISTRICT JUDGE

JUDGE LOUISE WOOD FLANAGAN

SLED, HARTSVILLE S.C. POLICE DEPARTMENT
AND THE UNITED STATES OF AMERICA
APPELLEE

MOTION TO DISQUALIFY
(28 U.S.C. § 144)

RELIEF SOUGHT

APPELLANT LARRY BLAKNEY MOVES THIS COURT UNDER SECTION 144 OF TITLE 28 OF THE UNITED STATES CODE FOR AN ORDER TO DISQUALIFY LOUISE WOOD FLANAGAN IN ABOVE CAPTIONED CASE AND ASSIGN ANOTHER JUDGE TO THE CASE

GROUND FOR RELIEF

THE COURT SHOULD DISQUALIFY JUDGE LOUISE WOOD FLANAGAN IN THIS MATTER BECAUSE OF PARTIAL AND BIAS BEHAVIOR IN VIOLATION OF THE DUE PROCESS THAT REQUIRES THAT EVERY LITIGANT BE ENTITLED TO A FAIR TRIAL BEFORE AN IMPARTIAL JUDGE. SEE *FLOWERS V. BUTTS*, 899 F.3d 788, 794 (7th Cir. 2016) (WHICH STATES BECAUSE THE JUDGE KNOWS BOTH THE FACTS AND THE LAW ABOUT DISQUALIFICATION BETTER THAN LITIGANT, EVEN A LITIGANT WITH A LAWYER IT IS WELL TO STICK WITH THE STATUTORY LANGUAGE; THE JUDGE MUST DISQUALIFY HERSELF WHEN THE STATUTE, SO PROVIDES WHETHER OR NOT THE LITIGANT FILES A MOTION. THE JUDGE HAS AN INTEREST IN THE LITIGATION, PREVIOUS INVOLVEMENT WITH PARTIES, LACK OF IMPARTIALITY AND THEREFORE, AN APPEARANCE OF BIAS THAT SHE WAS THE JUDGE IN COMPLIANCE WITH THE AUTHORIZATION OF THE ELECTRONIC SURVEILLANCE THAT WAS ALLEGED BY THE CLASS MEMBERS IN THE ALLEGATION BY THE APPELLANT AND IS STILL ALLOWING THE INMATES TO BE SURVEILLANCE BY THE HARTSVILLE S.C. POLICE DEPARTMENT AND THE SLED S.C. LAW ENFORCEMENT DIVISION OF HARTSVILLE S.C.

IT WAS JUST REVEAL TO APPELLANT THAT THE COURT IN THE JURISDICTION OF THE VENUE THAT'S BEING INVESTIGATED ARE SURVEILLANCING FOR INVESTIGATIVE PURPOSES HAVE TO BE THE COURT TO AUTHORIZE AN JUDICIAL ORDER IN PURSUANT TO FED. R. CRIM. P. 41 IN PURSUANT TO 50 U.S.C. § 1803(g). ONLY THE EASTERN DISTRICT OF NORTH CAROLINA (WESTERN DIVISION) DISTRICT COURT HOLDS THE AUTHORITY TO AUTHORIZE THE ELECTRONIC SURVEILLANCE AT THE F.M.C. OF BUTNER N.C. THAT THE PLAINTIFF AND THE CLASS MEMBERS ARE UNDER GOING AND HAVE BEEN UNDER GOING SINCE HIS ARRIVAL AT THE F.M.C. OF BUTNER N.C. THE APPELLANT LARRY BLAKNEY IS ORIGINALLY FROM HARTSVILLE S.C. AND IS BEING AUTHORIZED BY THE COURT TO BE SURVEILLANCE BY THE HARTSVILLE S.C. POLICE OFFICERS IN VIOLATION OF HIS RIGHTS OF THE DUE PROCESS AS WELL AS HIS RIGHTS TO PRIVACY AND RIGHTS AGAINST UNREASONABLE SEARCHES AND SEIZURES WHICH IN THE CONTEXT OF THE FOURTH AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES IS ALSO DESCRIBE AS A UNLAWFUL ELECTRONIC SURVEILLANCE IN WHICH HIM AND THE CLASS MEMBERS ARE UNDER GOING. THE JUDGE THAT'S AUTHORIZING ANY TYPE OF ELECTRONIC SURVEILLANCE MUST SAFEGUARD THE RIGHTS OF THE INDIVIDUALS UNDER SURVEILLANCE SEE *HYDE V. UNITED STATES* 574 F. 2d 856, 869 (5th Cir. 1978) THE COURTS ALLOWING THE APPELLANT TO BE WATCHED IN CELLS IN WHICH HE HAVE TO URINATE AND DEFECATE AND EXPOSE HIS GENITAL AND ANAL SECTION, WE'RE ALSO BEING WATCH WHY WE GET NUDE TO SHOWER ON A DAILY BASIS, THAT'S A FEW REASONS WHY THE JUDGE OVER THE ALLEGATION ACTED PARTIAL AND BIAS IN THE LITIGATION THE APPELLANT LARRY BLAKNEY FILED. THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA (WESTERN DIVISION) IS ALSO RESPONSIBLE FOR ALLOWING THE HARTSVILLE S.C. POLICE AND SLED OFFICER TO COMMUNICATE WITH THE APPELLEE THROUGH THE COMMUNICATION ACT IN PURSUANT TO 18 U.S.C. § 1304, 1464, 47 U.S.C. § 151-609 BY WIRE, RADIO AND TELEVISION COMMUNICATION WITH THE GENERAL PUBLIC OF HARTSVILLE IN ATTENDANCE THROUGH THE INVESTIGATIVE SURVEILLANCE, SO HE CAN BE HARASSED, BLACKMAILED AND EXTORTED ABOUT REMOVING HIS FACEBOOK PAGE AND STALKED BY THE PEOPLE OF THE GENERAL PUBLIC IN WHICH WE'RE ALL BEING INVADEN AND INTERUDED THROUGH THE ILLEGAL INTERCEPTION, THE JUDGE IN THE DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA SHOWED ABUSE OF DISCRETION IN THE ALLEGATION ALLEGED TO THE COURT, BECAUSE SHE'S ACTUALLY PARTAKING IN THE ILLEGAL INTERCEPTION AS WELL AS JUDICIAL MISCONDUCT. THE COURT IS AUTHORIZING THE ELECTRONIC SURVEILLANCE

FOR PURPOSES TOTALLY CONTRARY TO A INVESTIGATION, THE COURT IS ALSO AUTHORIZING EAVESDROPPING SURVEILLANCES IN PURSUANT TO 18 U.S.C. § 2510 AND 18 U.S.C. § 2518 FOR ALL THE UNLAWFUL PURPOSES MENTION IN THE MOTION. THE FEDERAL MEDICAL CENTER IS AIDING AND ABETTING BY ALLOWING THE MISCONDUCT TO TAKE PLACE AND NOT TELLING THE COURT TO REFRAIN FROM DOING THE UNLAWFUL SURVEILLANCE IN WHICH IS A MAJOR VIOLATION OF THE APPELLANT AND CLASS MEMBERS DUE PROCESS, PRIVACY RIGHTS AND ~~AND~~ WHICH FITS 4TH AND 14TH AMENDMENT VIOLATIONS OF THE UNITED STATES CONSTITUTION. THE APPELLANT HAVE JUST LEARN THE FACTS ABOUT THE JUDGE ASSIGNED TO THIS CASE, AND IN APPROPRIATION HAVE MADE A FILING OF THIS MOTION TO SHOW GOOD CAUSE FOR ANY DELAY ON ANY MOTIONS ARE INTERLOCUTORY ORDER TO BE REMANDED IN THAT DISTRICT FOR PURPOSE OF ABUSE OF DISCRETION. SEE UNITED STATES V. WALKER, 2020 U.S. App. LEXIS 37655 AT *6-7 (10TH CIR DEC. 2, 2020) (IN WHICH STATES MOTION TO RECUSE MUST BE FILED AS SOON AS MOVANT LEARNS FACTS DEMONSTRATING BASIS FOR DISQUALIFICATION) ALSO SEE UNITED STATES V. BRINKWORTH, 68 F. 3d. 683, 689 (2d. Cir. 1995) (IN WHICH STATES (TEST IS WHETHER MOVANT HAS PARTICIPATE SUBSTANTIALLY IN TRIAL, WHETHER GRANTING MOTION WOULD WASTE JUDICIAL RESOURCES, WHETHER MOTION WAS MADE AFTER JUDGMENT WAS ENTERED, WHETHER MOVANT CAN SHOW GOOD CAUSE FOR DELAY) THE APPELLANT IS ASKING THE CIRCUIT COURT TO ASSIGN AN INVESTIGATOR TO INVESTIGATE THE BIAS AND UNFAIR TREATMENT OF PARTIALITY. THE APPELLANT IS ASKING THE COURT TO ASSIGN THE CASE TO A IMPARTIAL JUDGE FOR DISCRETION. SEE LITEKY V. UNITED STATES, 510 U.S. 540, 548-549, 114 S. Ct. 1147, 1154, 127 L. Ed 474 (1994) (APPELLATE AUTHORITY TO REOPEN CASE ON REMAND REST ON RECUSAL AND POWER TO REQUIRE FURTHER PROCEEDINGS AS JUSTICE REQUIRES.

RECORD ON MOTION

THIS MOTION IS BASED ON THE DOCUMENT, THE ATTACHED NOTICE OF MOTION, CERTIFICATE OF SERVICE, THE AFFIDAVIT OF LARCA BLAKEN (NAME OF AFFIANT), THE SUPPORTING MEMORANDUM OF LAW, ATTACHED TO THIS MOTION, AND ALL OF THE PLEADINGS, PAPERS, AND OTHER RECORDS ON FILE IN THIS ACTION.

DATED: _____

LARRY BLAKNEY #3475041 et al

APPELLANT

V.S

SLED, HARTSVILLE SC POLICE DEPT AND
THE UNITED STATES OF AMERICA
APPELEE

APPEAL NO. 21-7717

CASE NO. 5:21cv03071-FL

MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
LARRY BLAKNEY MOTION TO
DISQUALIFY AND RECUSE JUDGE

THE COURT SHOULD GRANT THE APPELLANT LARRY BLAKNEY MOTION TO DISQUALIFY JUDGE FOR THESE REASONS. FIRST JUDGE RECUSAL OR DISQUALIFICATION MAY BE BASED ON PARTIALITY OR BIAS. A JUDGE MUST RECUSE HIMSELF OR HERSELF OR MAY BE DISQUALIFIED BASED ON PARTIALITY AGAINST A PARTY, OR BECAUSE HIS OR HER IMPARTIALITY "MIGHT REASONABLY BE QUESTIONED". SECOND DUE PROCESS REQUIRES THAT EVERY LITIGANT IS ENTITLED TO A FAIR TRIAL BEFORE AN IMPARTIAL JUDGE. THE REQUIREMENT THAT A JUDGE WHOSE IMPARTIALITY IS QUESTIONABLE MUST DISQUALIFY HIMSELF OR HERSELF AND LET ANOTHER JUDGE PRESIDE IS DESIGN TO PROMOTE CONFIDENCE IN JUDICIAL PROCESS IN WHICH IS SAFEGUARDED BY THE 5TH AND 14TH AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES (DUE PROCESS CLAUSE)

A) THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT HAS JURISDICTION IN THIS CASE AS A MATTER OF COURSE
42 U.S.C § 1983

THE APPELLANT LARRY BLAKNEY IS ENTITLED TO DISCRETION OF THE ALLEGATION ALLEGED IN THE ABOVE-DOCKETED NUMBER
FOR GOOD CAUSE AND IN GOOD FAITH

DO TO THE ABUSE OF DISCRETION THAT WAS MENTION
AT ALL TIMES IN THE COMPLAINT HE ALLEGED CONC-
ERNING PARTIALITY AND BIAS BY THE JUDGE ON
THE BASIS AND FACTS OF THE JUDGE MISCONDUCT
See. EL FENIX DE PUERTO-RICO V. THE M.Y. JOHNNY,
36 F. 3d. 136, 140 (1ST CIR. 1994) (WHICH STATES THAT WHEN
PARTIALITY IS CHARGED IT MUST BE BASED ON SOME
BASIS IN FACTS. THE FACT IN THE ALLEGATION ALLEGED
IS THAT THE APPELLANT WAS AWARE OF THE JUDGE IN
AUTHORIZING THE ELECTRONIC SURVEILLANCE UNTIL AFTER
THE JUDGE COMMITTED ABUSE OF DISCRETION IN THE
"COMPLAINT"

THE APPELLANT RECEIVE A CONFIRMATION THAT ONLY A
JUDGE WITHIN ~~THE~~ JURISDICTION OF THE VENUE
THAT BEING INVESTIGATED CAN GIVE JUDICIAL
AUTHORIZATION FOR AN ELECTRONIC INTRUSION
THROUGH A SURVEILLANCE IN PURSUANT TO RULE 41(d)
AT THE TIME LARRY BLAKNEY FILE THE COMPLAINT HE
WAS UNDER THE IMPRESSION THAT THE JUDGE AUTHOR-
IZING THE ELECTRONIC SURVEILLANCE, WAS THE JUDGE
OVER HIS CASE AND CRIMINAL OFFENSE IN S.C WHO IS
HONORABLE JUDGE DONALD COBBINS FROM THE FLORENCE
S.C DIVISION, WHEN ACTUALLY IT IS THE JUDGE FROM
THE EASTERN DISTRICT OF NORTH CAROLINA THAT CAN BE ONLY
THE JUDGE TO AUTHORIZE AN ELECTRONIC SURVEILLANCE
WITHIN THE VENUE THAT HE RESIDES AT THE FEDERAL
MEDICAL CENTER OF BUTNER N.C, OUT OF GOOD CAUSE
AND GOOD FAITH OF THE FACTS THAT WAS CONFIRM
LARRY BLAKNEY FILED THE MOTION TO RECUSE
AND DISQUALIFY THE JUDGE

SEE, UNITED STATES V. WALKER, 2000 U.S. APP LEXIS
37655 AT *6-7 (10TH CIR DEC. 2, 2000) (MOTION TO REUSE
MUST BE FILED AS SOON AS MOVANT LEARN FACTS
DEMONSTRATING BASIS FOR DISQUALIFICATION, AND
SEE, UNITED STATES V. BRINKWORTH, 68 F. 3d 633, 639 (2d,
CIR. 1995) (STATES TEST IS WHETHER MOVANT HAS PARTICIPATE
SUBSTANTIALLY IN TRAIL, WHETHER GRANTING MOTION WOULD
WASTE JUDICIAL RESOURCES, WHETHER MOTION WAS MADE
AFTER JUDGMENT ENTERED, WHETHER MOVANT CAN SHOW
GOOD CAUSE FOR ANY DELAY

FROM THE THE FACTS AND THE LAWS THAT CONSTITUTES
AND GOVERNS LAW ENFORCERS AND JUDICIAL OFFICIALS
AUTHORIZATION OF ALLOWING THEM TO USE ELECTRONIC
INTRUSIVE SURVEILLANCES FOR INVESTIGATIVE REA-
SONS TO RECEIVE INFORMATION THEY NEED, BUT NOT OUT
OF BEING VIGILANT AND SAFEGUARDING THE RIGHTS OF
THE INDIVIDUAL ARE INDIVIDUALS RIGHTS THATS BEING
WATCHED THROUGH THE SURVEILLANCE IN WHICH FITS THE
CONTEXT OF A FOURTH AMENDMENT UNREASONABLE SEARCH
AND SEIZURE, ESPECIALLY IF THE JUDICIAL AUTHORIZATION
IS TAKING PLACE WHERE THE INDIVIDUAL ARE INDIVIDUALS
HAVE A REASONABLE EXPECTATION OF PRIVACY. FOR A JUDGE
WHO DO THE JUDICIAL SUPERVISORY TO ALLOW THE SURVEILLANCE
TO TAKE PLACE IN A LOCATION WHERE A INMATE ARE INMATES
CAN BE WATCH IN THE NUDE OR ON THE TOILET WHERE HIS
GENITAL AND ANAL AREAS CAN BE EXPOSE IS A VIGOROUS
ACT OF JUDICIAL MISCONDUCT AS WELL AS BIAS. SEE,
UNITED STATES V. KYE SOO LEE 898 F. 2d 1034, 1038 (5TH CIR 1990)
INSTEAD OF THE JUDGE WHO THE COMPLAINT WAS ALLEGED, WHO
KNOW THE LAW AND THE FACTS DOING A SELF-DISQUALIFICATION
THE JUDGE CHOSE TO DO A ABUSE OF DISCRETION

SEE. *Flower v. Butts*, 829 F.3d 788, 794 (7th Cir. 2016) (BECAUSE THE JUDGE KNOWS BOTH THE FACTS AND THE LAW ABOUT DISQUALIFICATION BETTER THAN ANY LITIGANT, EVEN A LITIGANT WITH A LAWYER, IT IS WELL TO STEEL WITH THE STATUTORY LANGUAGE, THE JUDGE MUST DISQUALIFY HERSELF FOR HIMSELF WHEN THE STATUTE SO PROVIDES WHETHER ARE NOT THE LITIGANT FILES A MOTION. ALSO SEE. *Litky v. United States*, 510 U.S. 540, 548-549, 114 S. Ct. 1147, 1154, 127 L. Ed. 2d 474 (1994) (APPELLATE AUTHORITY TO REASSIGN CASE ON REMAND RESTS ON RECUSAL AND POWER TO REQUIRE FURTHER PROCEEDINGS AS JUSTICE REQUIRE)

LAW ENFORCEMENT OFFICERS AND THE JUDGES THAT HOLD JUDICIAL AUTHORITY AND HAVE THE ABILITY TO ENFORCE THE LAW AND GIVE US THE EQUAL PROTECTION OF ALL THE LAWS AS RATIFIED BY THE FOURTEENTH AMENDMENT (DUE PROCESS CLAUSE) OF THE UNITED STATES CONSTITUTION ARE THE ONES WE LOOK UP TO WITH HIGH EXPECTATION FOR SECURITY AND SAFETY IN OUR COMMUNITY. FOR A JUDICIAL OFFICER SUCH AS A JUDGE TO AUTHORIZE A ELECTRONIC SURVEILLANCE, THAT'S SUPPOSE TO BE USED FOR INVESTIGATIVE PURPOSES TO USE THEM TO FACILITATE EXTORTION AND THREATS TOWARDS A INMATE LIFE INSIDE A PRISON WHEN THEY'RE FULLY AWARE OF THE PERCEPTION OF THE CONSTITUTION IS BEYOND AN ACT OF BIAS AND IS ACTUAL JUDICIAL MISCONDUCT IN PURSUANT TO 18 U.S.C. § 872-873 AS WELL AS A FORM OF CRUELTY THAT'S UNNECESSARY AND A PROHIBITION OF THE EIGHTH AMENDMENT "IN WHICH SAY A PRISONER SHOULDN'T BE EXPOSED TO THIS TYPE OF TREATMENT ALL FITS THE DESCRIPTION OF A JUDGE THAT SHOULD BE RECUSE AND DISQUALIFIED FOR PARTIALITY. SEE. *States v. Sears Roebuck and Co.*, 785 F.2d 777, 780 (9th Cir. 1986) (WHICH STATES APPELLATE COURT HAS INHERENT AUTHORITY TO REQUIRE SECOND TRIAL BEFORE DIFFERENT JUDGE

EZEKWO V. CALIBER HOME LOANS INC. 2021 U.S. DIST. LEXIS 109677
AT 41.8 (D.N.J. JUNE 11, 2021) (UNDER 28 U.S.C § 455(A) JUDICIAL
RECUSAL IS REQUIRED "IF A REASONABLE PERSON, KNOWING ALL
THE CIRCUMSTANCES, WOULD EXPECT THAT THE JUDGE WOULD HAVE
ACTUAL KNOWLEDGE" OF HIS OR HER INTEREST OR BIAS IN CASE
(QUOTING LI/BERG V. HEALTH SERVICE ACQUISITION CORP.)
CONCLUSION

FOR THE FOLLOWING REASONS, THE PLAINTIFF MOTION TO RECUSE
AND DISQUALIFY THE JUDGE SHOULD BE GRANTED BY THE COURT.
FIRST LARRY BLAKNEY HAVE SUFFICIENT FACTS AND RELEVANT LAW
IN PURSUANT 28 U.S.C § 144 FOR RECUSAL, THE DUE PROCESS
GIVES LARRY BLAKNEY THE RIGHT TO RECEIVE THE DISCRETION
OF A IMPARTIAL JUDGE. SECOND THE PARTIALITY AND BIAS
BEHAVIOR OF THE JUDGE SHOWS A REQUIREMENT FOR DISQUALI-
FICATION IN PURSUANT TO 28 U.S.C § 455. LASTLY, IT WOULD
VIOLATE LARRY BLAKNEY DUE PROCESS RIGHTS IF HE DON'T RECEIVE
THE JUSTICE THAT'S REQUIRED

LARRY BLAKNEY # 34750141
APPELLANT

APPEAL NO. 21-2717

CASE NO. 5121-G-03071-FI

SLED, HARTSVILLE S.C. POLICE DEPT
AND THE UNITED STATES OF AMERICA
APPELLEES

AFFIDAVIT OF BIAS OR
PREJUDICE AND CERTIFICATE
OF PRO-SE REPRESENTATIVE
(28 U.S.C. § 144)

AFFIDAVIT OF LARRY BLAKNEY

LARRY BLAKNEY (NAME OF AFFIDANT) BEING DULY SWORN, DEPOSES
AND STATES:

1) MY NAME IS LARRY BLAKNEY, I AM A PRE-TRIAL DETAINEE
HOUSED AT THE FEDERAL MEDICAL CENTER OF BUTNER N.C. MY
ADDRESS P.O. BOX 1600 BUTNER N.C. 27509. I AM FULLY COMPETENT
IN PURSUANT TO 18 U.S.C. § 3481 TO MAKE THIS AFFIDAVIT AND
I HAVE PERSONAL KNOWLEDGE OF THE FACTS STATED IN THIS
AFFIDAVIT. TO MY KNOWLEDGE, ALL THE FACTS STATED IN THIS
AFFIDAVIT ARE TRUE AND CORRECT

2) I AM THE APPELLANT IN THIS MATTER. I MAKE THIS AFFIDAVIT
IN SUPPORT OF THE MOTION TO DISQUALIFY THE HONORABLE JUDGE
LOUISE WOOD FLANAGAN FROM THIS CASE ON THE BASIS OF
PERSONAL BIAS OR PREJUDICE AGAINST ME.

3) THE JUDGE THAT WAS ASSIGNED TO DO THE DISCRETION IN THE
LITIGATION THAT WAS FILED HOLDS OFFICE IN THE JURISDICTION
THAT HAVE THE AUTHORITY TO AUTHORIZE THE ELECTRONIC
SURVEILLANCE IN THE VENUE OF THE F.M.C. OF BUTNER N.C. AND THAT
JURISDICTION ONLY CAN AUTHORIZE RULE 41(d) FOR ANY INVESTIGA-
TIVE PURPOSES AT THE FEDERAL MEDICAL CENTER

4.) THIS ACTION WAS BROUGHT AGAINST THE DEFENDANT SO THAT THE APPELLANT CAN SAFEGUARD RIGHTS SECURED BY THE CONSTITUTION OF THE UNITED STATES, IN WHICH THE JUDGES OF THE COURT THAT AUTHORIZING THE ELECTRONIC SURVEILLANCE WHICH IN THE CONTEXT OF THE FOURTH AMENDMENT IS THE SAME AS A UNREASONABLE SEARCH AND SEIZURE AND IS 14TH AMENDMENT DUE PROCESS VIOLATION. THE COURT OF THE EASTERN DISTRICT OF NORTH CAROLINA THAT AUTHORIZING THE HARTSVILLE S.C. POLICE AND S.C. LAW ENFORCEMENT DIVISION TO WATCH THE APPELLANT THROUGH THE ELECTRONIC INTENSIVE DEVICE ARE SUPPOSE TO DO A REVIEW AND REPORT ON IT AND MAKE SURE THEY SAFEGUARD THE RIGHTS OF THE INDIVIDUAL(S) THAT BEING SURVEILLANCE, OUT OF BIAS OF THEIR JUDICIAL AUTHORITY THEY'RE DISREGARDING A LOT OF RIGHTS THAT IS SAFE AND SECURED BY THE CONSTITUTION OF THE PRISONER(S) THROUGH A UNLAWFUL JUDICIAL SUPERVISION

A) THROUGH THE JUDICIAL SUPERVISION OF THE EASTERN DISTRICT OF NORTH CAROLINA THE JUDGE(S) ARE WILLFULLY COMMITTING THE JUDICIAL MISCONDUCT THAT MENTION AT ALL TIMES IN THE MOTION AS WELL AS THE COMPLAINT AND ALLEGATION

B) THEY'RE ABLE TO WATCH, LISTEN AND OBSERVE EVERY ACTION THAT IS BEING SUPERVISED BY THEIR JUDICIAL SUPERVISION, IN WHICH IS A VIGOROUS ACT OF BIAS FOR THE HONORABLE JUDGE(S) TO DO WITHOUT MAKING A ATTEMPT TO DISQUALIFY THEMSELVES, BUT INSTEAD MAKE DISCRETIONS OUT OF ABUSE AND BIAS WITH PREJUDICE OF THE ALLEE SEE, *FLOWERS V. BUTTS*, 821 F.2d 708, 794 (7TH Cir. 2016) (BOTH SUBSECTION (A) AND SUBSECTION (B) OF 28 U.S.C. § 455, (SAY THAT THE JUDGE MUST DISQUALIFY HIMSELF FOR HERSELF WHEN (CERTAIN THINGS ARE TRUE))

C) *UNITED STATES V. WALKER*, 2020 U.S. APP LEXIS 87655 AT *6-7 (10TH Cir. Dec. 2, 2020) (MOTION TO RECUSE MUST BE FILED AS SOON AS MOVANT LEARN FACTS DEMONSTRATING BASIS FOR DISQUALIFICATION) ALSO SEE *POINERD CORP V. EASTERN KODAK CO.*, 867 F.2d 1415, 1418 (FED. Cir. 1989) BECAUSE THERE IS NO STATUTORY LIMITATION ON TIME WITHIN WHICH MOTION MAY BE FILED, FILING CANNOT BE DESCRIBED AS TIMELY OR UNTIMELY

5) THE ELECTRONIC SURVEILLANCE IN WHICH FITS THE CONTEXT OF A UNREASONABLE SEARCH AND SEIZURE THAT THE COURT IS ALLOWING TO TAKE PLACE IN A LOCATION WHERE THE APPELLANT HAVE A REASONABLE EXPECTATION OF PRIVACY IS AN INTRUSION INTO THE PRISONER(S) CELL (HOUSING) AS WELL AS PAPERS AND EFFECT. IT'S ALLOWING THE APPELLANT TO BE WATCH AS HE USE THE TOILET TO DEFECATE AND URINATE; WE'RE ALSO BEING WATCH AS WE'RE IN THE NUDE TO SHOWER IN WHICH IS EXPOSING OUR GENITAL AND ANAL AREAS TO THE POLICE OFFICIALS AS WELL AS THE PEOPLE OF THE GENERAL PUBLIC THAT THE COURT ARE ALLOWING TO BE IN ATTENDANCE TO THE INTRUSIVE SURVEILLANCE IN PURSUANT TO RULE 41(b) THIS TYPE OF BIAS TREATMENT SHOULD'NT BE CONDONE BY JUDICIAL OFFICIALS AND WAS ENACTED BY MANDATE OF THE SUPREME COURTS ~~FOR~~ PROTECTING PRISONERS CONSTITUTIONAL RIGHTS. SEE SCHMERBER V. CALIFORNIA, 384 U.S. 757 (1966) AGAINST SEARCHES THAT MAY INVADE PERSONAL PRIVACY OF INMATES

6) THE JUDGE(S) IN THE EASTERN DISTRICT OF NORTH CAROLINA CAME INTO THE SEAT OF HONOR THROUGH A DECLARATION OF ADMISSION THAT THEY WILL WALK UPRIGHTLY ACCORDING TO THE LAW AND THAT THEY WILL SUPPORT THE CONSTITUTION. THE JUDGE(S) THAT'S JUDICIALLY SUPERVISING THE ELECTRONIC SURVEILLANCE IN VIOLATION OF THE LAWS AND CONSTITUTION IS PARTIAL AND ACTING OUTING OF BIAS THAT CAN ONLY BE EXPLAIN AS "JUDICIAL MISCONDUCT" SEE, EZEKWO V. CALIBER HOME LOANS INC. 2021 U.S. DIST. LEXIS 109677 AT *4 N. 8 (D.N.D. JUNE 11, 2021) (UNDER 28 U.S.C. § 455 JUDICIAL RECUSAL IS REQUIRED "IF A REASONABLE PERSON, KNOWING ALL THE CIRCUMSTANCE WOULD EXPECT THAT JUDGE WOULD HAVE ACTUAL KNOWLEDGE OF HIS OR HER INTEREST OR BIAS IN CASE) ALSO SEE, EL FENIX DE PUERTO RICO V. THE M.Y. JOHNNY, 36 F. 3d 136, 140 (1ST CIR. 1994) (WHEN PARTIALITY IS CHARGED IT MUST BE BASED ON SOME BASIS IN FACT)

7.) THE JUDICIAL OFFICIAL IS ACTUALLY AND FACTUALLY AUTHORIZING THE ELECTRONIC SURVEILLANCE FOR THE HARTSVILLE S.C. POLICE DEPARTMENT AND THE S.C. LAW ENFORCEMENT DIVISION TO, INTERUDE ME, WATCH ME AND HARASS ME THROUGH A DEFAMATORY COMMUNICATION OF ME BEING A FAKE AND A CRACK-HEAD; AND ALL KIND OF LIBELS, SLANDERS OUT OF ACTUAL-MAJESTY AND ILL WILL WITH FAUSTIVITY AND RECKLESS DISREGARD OF THE TRUTH BY THE GENERAL PUBLIC AND THE PEOPLE THAT THE COURT AND LAW ENFORCER ARE ALLOWING TO BE A PART OF THE INTERCEPTION. IN WHICH IS VIOLATION AND CONSIDERED AS CRIME IN PURSUANT TO (THE ILLINOIS EAVESDROPPING LAW) WITH CRIMINAL THREATS AND BLACKMAIL OF TAKING MY LIFE IF I DON'T REMOVE MY FACEBOOK SOCIAL MEDIA OULET IN WHICH I PROMOTE MY MINISTRY AND CHRISTIAN ENTERTAINMENT APPS CALLED "GATE MOVEMENT RECORDS" OUT OF BIAS BEHAVIOR OF THREATS AND EXTORTIONS

I SIGNED THIS AFFIDAVIT ON _____ (DATE)

SIGNATURE Larry Blanks

SUBSCRIBED AND SWORN TO BEFORE ME ON _____ (DATE)
CERTIFICATE OF COUNSEL

AS REQUIRED BY THE PROVISION OF SECTION 144 OF TITLE 18 OF THE UNITED STATE CODE, I PRO-SE REPRESENTATIVE OF RECORD FOR Larry Blanks (NAME OF PARTY), CERTIFY THAT THIS AFFIDAVIT OF PREJUDICE IS SUBMITTED IN GOOD FAITH AND NOT FOR PURPOSE OF DELAY;

U.S. COURT OF APPEALS FOR THE FOURTH CIRCUIT

LARRY BLAKNEY #34950171 ET AL
APPELLANT

V.3

SLED, HARTSVILLE POLICE DEPARTMENT
UNITED STATES OF AMERICA
APPELLEE

APPELL NO. 21-7717

DISTRICT CT. NO.
5:21-CR-03071-FL

DISTRICT JUDGE

JUDGE LOUISE WOOD FANNAN

(FED. R. APP. P. 35(b)(1))

PETITION FOR

REHEARING

FED. R. APP. P. 40.35

THE APPELLANT LARRY BLAKNEY IN THIS MATTER SUBMITS
THIS MOTION FOR THE USE OF THE JUDGES OF THIS COURT
FOR A REHEARING OF DISCRETIONARY 23(F)

1) THE PETITIONER IS A PRE-TRIAL DETAINEE HOUSED AT THE
THE FEDERAL MEDICAL CENTER OF BUTNER N.C. ALONG WITH
CLASS MEMBERS OUR ADDRESS IS P.O. BOX 1600 BUTNER NC
27509

2) THE PETITIONER LARRY BLAKNEY AND THE CLASS MEMBERS OF
BUTNER F.M.C. IS ALL BEING ELECTRONICALLY SURVEILLANCED
BY THE AUTHORIZATION OF THE UNITED STATES DISTRICT
COURT FOR THE EASTERN DIVISION OF NORTH CAROLINA, BY
THE HARTSVILLE S.C. POLICE IN VIOLATION OF THEIR
FOURTH AND FOURTEENTH AMENDMENT TO THE UNITED
STATES CONSTITUTION, AS THE HARTSVILLE S.C. POLICE
OF THE S.C. LAW ENFORCEMENT DIVISION INVESTIGATE
THE APPELLANT LARRY BLAKNEY THROUGH A ILLEGAL INTER-
CEPTION IN PURSUANT TO 50 U.S.C. § 1801, 18 U.S.C. § 2510,
18 U.S.C. § 2518, WIRETAPS, FICA, AND ELECTRONIC COMMU-
NICATION IN THEIR CELLS WHERE THEY HAVE A EXPECTATION
OF PRIVACY THEIR PAPERS (LEGAL MAIL) TO USE THE TOILET
IN WHICH THE POLICE ARE EXPOSING THE INMATES (GENTLE
AND ANAL SECTION TO THE PEOPLE IN ATTENDANCE TO
THE ELECTRONIC SURVEILLANCE THAT'S BEING AUTHORIZED
BY THE UNITED STATES COURT FOR THE EASTERN DISTRICT
OF NORTH CAROLINA

TABLE OF AUTHORITIES CITEDCERTIFICATION OF REASONS FORREHEARING/ STATEMENT OF FACTS

THE FACT OF THE CONSTITUTIONAL DEPRIVATION OF THE PLAINTIFF OR APPELLANT AND THE CLASS MEMBERS RIGHT OF THE FOURTH AND FOURTEENTH CANNOT BE OVERLOOKED ARE MISAPPREHENDED, SEE *PENTACORP V. ROBINSON*, 135 F.3d, 760, 762 (FED. CIR 1998)

TABLE OF AUTHORITIES CITEDCONSTITUTION, STATUTE, REGULATION AND RULES

1) 28 U.S.C § 46(c); FED. R. APP. P 35(a); *MOODY V. ALBEMARLE PAPER CO.* 417 U.S. 602, 606, 44 S. CT. 2513, 41 L. ED 2d 358 (1974) (POWER TO ORDER HEARING OR REHEARING EN BANC CONFINE TO JUDGES IN REGULAR ACTIVE SERVICE)

LOCAL RULES, 4TH CIR., L.R. 35(c) (REHEARING IS A REVIEW OF THE JUDGEMENT OR DECISION FROM WHICH REVIEW IS SOUGHT AND NOT A REVIEW OF JUDGEMENT OF PANEL)

CASES

1) 5TH CIR. R. 41.3; 11TH CIR. R. 35-11; *UNITED STATES V. SEALE*, 577 F.3d. 566, 570 (5TH CIR. 2009) (THE GRANT OF THE PETITION FOR REHEARING EN BANC HAD THE EFFECT OF VACATING THE UNANIMOUS PANEL OPINION AND RENDERING IT NON PRECEDENTIAL)

2) SEE 28 U.S.C § 46(d) (A MAJORITY OF NUMBER OF JUDGES AUTHORIZED TO CONSTITUTE A COURT PANEL THEREOF... SHALL CONSTITUTE A QUORUM) SEE E.G. *CORNER V. MURPHY* 01 U.S.A. 6007 F.3d 1049, 1054-1055 (5TH CIR 2010) REJECTING POSSIBILITIES OF (1) ASKING CHIEF JUSTICE TO APPOINT JUDGE FROM ANOTHER CIRCUIT TO CREATE QUORUM (2) CONTINUING 28 U.S.C § 46(d) AND FED. R. APP. P. 35(a) TO TREAT REMAINING JUDGES AS QUORUM (3) ADOPTING "RULE OF NECESSITY" (4) DIS-ENBANCING CASE AND REINSTATING PANEL DECISION, AND (5) HOLDING CASE IN ABSENCE UNTIL COMPOSITION OF COURT CHANGES

THE FOURTEENTH AMENDMENT (DUE PROCESS CLAUSE) GUARANTEES IMPARTIAL JUDGES SEE *MOODY V. ALBEMARLE PAPER CO.* 417 U.S. 602, 606 44 S. CT. 2513 41 L. ED. 2d 358 (1974) (POWER TO ORDER HEARING OR REHEARING EN BANC CONFINE TO JUDGES IN REGULAR ACTIVE "SERVICE")

REQUIRED STATEMENTFED. R. App. P. 35(h)(1) LOCAL RULE 40(c) 4th Cir

I EXPRESS A BELIEF, BASED ON A REASONED AND STUDIED PROFESSIONAL JUDGMENT, THAT THIS APPEAL INVOLVES ONE OR MORE QUESTIONS OR OF EXCEPTIONAL IMPORTANCE

THE FIRST QUESTION OF IMPORTANCE IS HOW CAN THE REMEDY BE IGNORED PERTAINING PRISONER CIVIL RIGHTS ACT IN WHICH PROVIDES THAT: EVERY PERSON WHO UNDER COLOR OF ANY STATUTE, ORDINANCE, REGULATION, CUSTOM OR USAGE, OF ANY STATE OR TERRITORY, SUBJECTS OR CAUSE TO BE SUBJECTED, ANY CITIZEN OF THE UNITED STATES OR OTHER PERSON WITHIN THE JURISDICTION THEREOF TO THE DEPRIVATION OF ANY RIGHTS, PRIVILEGES, OR IMMUNITIES SECURED BY THE CONSTITUTION AND LAWS, SHALL BE LIABLE TO THE PARTY INJURED IN ACTION AT LAW, SUIT IN EQUITY, OR OTHER PROPER PROCEEDING FOR REDRESS. THE PANEL DECISION SETS UP A NEEDLESS CONFLICT WITH ALL OTHER CIRCUITS THAT HAVE RULED ON THE ISSUE OF THE FEDERAL REMEDY, TAKING A POSITION CONTRARY TO AUTHORITATIVE OPINIONS OF THE SECOND, THIRD, FIFTH, NINTH AND ELEVENTH CIRCUITS.)

THE SECOND QUESTION HOW CAN THE CONSTITUTIONAL PROVISION OF THE PRISONERS THAT BEING ALLEGED IN THE ALLEGATION BE IGNORED, THE PANEL DECISION, CONTRARY TO THE ACCEPTED MAXIMS OF STATUTORY INTERPRETATION, INTERPRETED THE LANGUAGE OF THE FEDERAL REMEDY SO THAT IT WOULD BE FOUND UNCONSTITUTIONAL, EVEN THOUGH ALL OTHER CIRCUITS THAT HAVE RULED ON THIS ISSUE HAVE ALREADY INTERPRETED THE FEDERAL REMEDY IN A NARROW MANNER SO THAT ITS CONSTITUTIONALITY MAY BE UP HELD.

I EXPRESS A BELIEF, BASED ON A REASONED AND STUDIED PROFESSIONAL JUDGMENT, THAT THE PANEL DECISION, IS CONTRARY OF THE FOLLOWING DECISIONS OF THE SUPREME COURT OF THE UNITED STATES OR THE PRECEDENTS OF THIS CIRCUIT AND THAT CONSIDERATION BY THE FULL COURT IS NECESSARY TO SECURE AND MAINTAIN UNIFORMITY OF DECISION IN THIS COURT

- 1) 38 U.S.C. § 46(c), FED. R. App. P. 35(a); MOODY v. AIRMAILER PAPER CO. 417 U.S. 622, 626, 44 S. Ct. 3513, 41 L. Ed. 2d 358 (1974) POWER TO ORDER RE-HEARING OR HEARING EN BANC CONFINE TO JUDGES IN REGULAR ACTIVE SERVICE

2.) WATSON V. GELEN, 587 F. 3d 156, 158-160 (2d Cir 2009) (PER CURIAM) (EN BANC REVIEW WAS NOT NECESSARY TO MAINTAIN UNIFORMITY OF COURTS DECISIONS IN CASE ~~SOVING~~ REVIEW OF DECISION OF DEPARTMENT OF THE ARMY CONSENTIONS OBJECTOR REVIEW BOARD, WHOSE DECISIONS WERE REVIEW ONCE IN A GENERATION, PARTICULARLY SINCE APPELLATE PANEL'S DECISION DID NOT SEEK TO DEPART FROM EXISTING STANDARDS, SO THAT CASE DID NOT INVOLVE QUESTION OF EXCEPTIONAL IMPORTANCE)

SUMMARY OF PROCEEDINGS

THE APPELLANT APPEAL FOR MOTION TO DISQUALIFY OR RECUSE THE DISTRICT JUDGE AND TO CERTIFY CLASS ACTION WERE A PER CURIAM BY THE THREE JUDGE PANEL OF THE COURT OF APPEALS AND BASED OFF OF THE THEORY OF THE DISTRICT COURT DISCRETION. THE RECUSAL MOTION WAS DONE BY THE APPELLANT OUT OF GOOD CAUSE AND GOOD FAITH, AND OFF OF FACTS OF THE DISTRICT COURT JUDGE PARTIALITY AND ABUSE OF DISCRETION IN THE ALLEGED ALLEGATION OF THE APPELLANT AND THE CLASS MEMBERS, THE DISTRICT COURT JUDGE HOLDS OFFICE IN THE COURT THAT IS AUTHORIZING THE ILLEGAL ELECTRONIC SURVEILLANCE AND AUTHORITY OF 18 U.S.C. § 2516 INCLUDING ANY AND ALL AUTHORIZATIONS FROM THE ATTORNEY GENERAL OR DESIGNATE OF THE ATTORNEY GENERAL FOR THE APPLICATION, WHICH SHOULD'VE LEAD THE JUDGE TO RECUSE AND DISQUALIFY HIMSELF FROM THE MATTER. SEE FLOWERS V. BUTTS, 829 F. 3d 788, 794 (7th Cir. 2016) THE APPELLANT AND CLASS MEMBERS ARE REQUESTING A RELIEF OF A CLASS CERTIFICATION TO SAFEGUARD THEIR RIGHTS, THAT'S SECURED BY THE CONSTITUTION ON THE REMEDY OF THE CIVIL RIGHTS ACT. AT THE TIME WE FILED THE ALLEGATION WE DIDN'T KNOW THAT THE AUTHORIZATION OF THE SURVEILLANCE WAS BEING AUTHORIZED BY THE JURISDICTION OF THE EASTERN DISTRICT OF NORTH CAROLINA WHERE THE COMPLAINT WAS FILED. SEE, WILLIAMS V. PENNSYLVANIA, 579 U.S. 136, S. Ct. 1899, 195 L. Ed. 2d 132 (2016) IN WHICH THEY'RE IN VIOLATION OF THE ILLINOIS EAVESDROPPING ACT AS WELL, BY ALLOWING THE GENERAL PUBLIC TO BE IN ATTENDANCE TO THE SURVEILLANCE AND BY USING IT FOR MEDIA EXPOSER SUCH AS RADIO AND TELEVISION, SEE PEOPLE V. BEARDSLEY, 115 Ill. 2d 47, 503 N.E. 2d 846, 847-50, 104 Ill. DEC. 789 (11/1986)

THE DEFENDANTS IS IN VIOLATION OF THE ILLINOIS EVERDROPPING ACT IN PURSUANT TO 18 U.S.C. § 2518, ON THE GROUND THAT, DESPITE THE DEFENDANT'S UNQUESTIONABLE GUILT, AND DESPITE THE CONGRESS POWER, UNDER THE CONSTITUTION, TO PROSCRIBE AND CRIMINALIZE THE CONDUCT OF THE DEFENDANT IN THIS CASE, OTHER PROVISIONS OF THE ACT SO INTER IT AS TO RENDER THE ENTIRE ACT UNCONSTITUTIONAL AND UNENFORCEABLE, UNLESS THIS COURT GRANTS A REHEARING EN BANC, SETS ASIDE THE PANEL DECISION AND RECALLS THE MANDATE OF THIS COURT FOR A REHEARING.

STATEMENT OF FACTS

WE'VE BEEN RECORDING AT THE FEDERAL MEDICAL CENTER IN VIOLATION OF OUR EXPECTATION OF PRIVACY THROUGH THE ELECTRONIC SURVEILLANCE THAT'S ALLOWING US TO BE WATCHED AS WE SHOWER AND ARE IN THE NUDE, OUR GENTAIL AND ANAL SECTIONS IS BEING EXPOSED BY THE ILLEGAL SURVEILLANCE THAT THE COURT IS AUTHORIZING THE HARTSVILLE S.C. POLICE OF THE S.C. LAW ENFORCEMENT DIVISION ON THE APPELLANT LARRY BIAKNEY IN WHICH HE'S BEING SURVEILLANCE IN HIS CELL (HOUSING AREA) WHERE HE HAVE TO USE THE TOILET AND REVEAL HIS GENTAIL AND ANAL SECTION. SEE UNITED STATES V. KYE 300 U.S. 848, 898 F.2d 1034, 1038 (5th Cir. 1990) QUOTING BAKAS 439 U.S. AT 1413) AN ILLEGAL ELECTRONIC SURVEILLANCE FITS THE SAME CONTEXT OF A UNREASONABLE SEARCH AND SEIZURE AND AS A VIOLATION OF THE FOURTH AND FOURTEENTH AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES SEE BERGER V. NEW YORK, 388 U.S. 41, 51, 87 S. CT. 1873, 18 L. ED 1040 (1967) MAY THE APPELLATE PANEL OVERLOOKEN ARE MISAPPREHENDED THESE POINTS OF LAW AND FACTS OF THE MATTER, THAT'S THE REASON FOR A SUFFICIENT REHEARING. SEE, PENTAX CORP. V. ROBINSON, 135, F.3d 760, 762 FED. CIR. 1998)

SUMMARY OF ISSUE APPEALED

THE DUE PROCESS CLAUSE GUARANTEES THAT EVERY LITIGANT BE ENTITLED TO A IMPARTIAL JUDGE OR PANEL OF JUDGES WHEN IT COMES TO POINTS AND LAWS OF THEIR DISCRETION MAY THE THE PANEL OVERLOOKEN ARE MISAPPREHENDED THE LAWS AND POINTS POINTED OUT IN THE STATEMENT OF FACTS, WE'RE SEEKING RELIEF OF A REHEARING. SEE. AM. SALES CO. V. ASTAZENELA L. (IN RE NEXIUM (ESOME PRIZOLA) ANTITRUST LITIG.), 845 F.3d 470, 475 (1st Cir. 2017)

THE PANEL MADE PEE CURIM DECISION WITHOUT ME BEING THERE IT WAS THROUGH ORAL ARGUMENT ON THE RECUSAL MOTION AS WELL AS THE CLASS CERTIFICATION ORDER OF APPEAL. WE WANTED TO RECUSE JUDGE LOUISE WOOD FIANNAGAN BECAUSE SHE HOLD OFFICE IN THE COURT THAT'S SURVEILLANCING THE APPELLANT AND CLASS MEMBERS AT BUTLER FIRM OF BUTLER N.C. WHICH IS A GOOD REASON FOR HER TO COMMIT ABUSE OF DISCRETION AND BIAS PARTIAL BEHAVIOR IN WHICH SHE SHOULD'VE JUST DISQUALIFIED HERSELF. SEE, FLOWER V. BUTTS, 824 F.3d 788, 794 (7TH CIR. 2016) THE PANEL CANNOT OVERLOOK A MISAPPREHEND A ISSUE THAT WAS PRESENTED TO THEM. SEE EASLEY V. HEUSS, 532 F.3d 592 593-594 (7TH CIR. 2008)

DO TO THE FACTS OF THE CONSTITUTIONAL DEPRIVATION OF THE APPELLANT LARRY BLAKNEY AND CLASS MEMBER RIGHTS AS INMATES LOCK UP DO TO THE DUE PROCESS CLAUSE AND THEIR RIGHT NOT TO BE EXPOSED TO THE GENERAL PUBLIC AND INVADED OF THEIR PRIVACY WHERE THEY HAVE A REASONABLE EXPECTATION AGAINST UNREASONABLE SEARCHES AND SEIZURE WHICH IN THE CONTEXT OF THE FOURTH AND FOURTEENTH AMENDMENT OF THE UNITED STATE CONSTITUTION IS THE SAME AS A UNLAWFUL ILLLEGAL ELECTRONIC SURVEILLANCE. SEE BELL V. WOLFISH 441 U.S. 580, 559, 99 S. CT. 1861, 60 L. ED 447 (1987) THESE CONSTITUTIONS AND LAWS SHOULD BE TAKEN IN CONSIDERATION BY THE PANEL FOR REHEARING AS A PROPER REMEDY OF JUSTICE. SEE AGUIER V. UNITED STATES DIST. COURT FOR THE DISTRICT OF ALASKA, 806 F.3d 1347, 1356-1357 (9TH CIR. 1986)

ACCORDINGLY, LARRY BLAKNEY RESPECTFULLY REQUEST THAT THIS COURT GRANT THIS PETITION FOR A REHEARING OF THIS MATTER EN BANC

DATE: _____

REPRESENTED BY:

CERTIFICATE OF SERVICE

I CERTIFY THAT A TRUE AND CORRECT COPY OF THE ATTACHED PETITION FOR REHEARING EN BANC WAS SENT BY FIRST CLASS U.S. MAIL IN A PROPERLY-ADDRESSED ENVELOPE WITH FIRST CLASS DULY POSTAGE PAID BEFORE 5:00 PM _____ (DATE) SERVED TO ALL PARTIES ON RECORD IN THIS ACTION.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

LARRY BLAKNEY # 84750171 et al
PLAINTIFF

ON BEHALF OF INMATES AT
BUTNER F.M.C.

VS

APPEAL COURT NO. 21-7717

DISTRICT CT. NO. 3:21-ct-03071-FL

SLED, HARTSVILLE S.C. POLICE DEPT.
AND THE UNITED STATES OF AMERICA
DEFENDANTS

" APPLICATION UNDER RULE 23(f)
" FOR LEAVE TO APPEAL
" CLASS CERTIFICATION ORDER
" OF DISTRICT COURT

RELIEF SOUGHT

PLAINTIFF LARRY BLAKNEY APPLIES TO THIS COURT, UNDER THE PROVISION OF RULE 23(f) OF THE FEDERAL RULES OF CIVIL PROCEDURE FOR LEAVE TO APPEAL THE DECISION OF JUDGE LOUISE WOOD FLANAGAN OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA DATED 11-29-2021 DENYING CERTIFICATION OF THE ACTION AS A CLASS ACTION. A COPY OF THE ORDER IS ATTACHED TO THIS APPLICATION AS EXHIBIT "1"

BASIS FOR RELIEF SOUGHT

AS MORE FULLY SHOWN BY THE SUPPORTING BRIEF AND ITS ATTACHED APPENDIX OF EXCERPTS FROM THE RECORDS

1. THIS ACTION WAS COMMENCED AS A PURPORTED CLASS ACTION ON 08/09/2021 ON BEHALF OF LARRY BLAKNEY AND THE CLASS MEMBERS HOUSED WITH HIM AT THE FEDERAL MEDICAL CENTER OF BUTNER NORTH CAROLINA FOR SEVERAL VIOLATIONS OF FEDERAL LAWS AND CONSTITUTIONAL RIGHTS OF THEM AS PRISONER HOUSED AND CONTINE AT BUTNER F.M.C see. BELL V. WOLFISH 441 U.S. 520, 555-57, 99 S. Ct. 1861, 601 L. Ed 2d 447 (1979)

THE PURPORTED CLASS CONSIST OF 20 ALE MOCE MEMBERS
ON 5/17/2021 PLAINTIFF LARRY BLARNEY SOUGHT TO HAVE THE
DISTRICT COURT DETERMINE, UNDER RULE 23(C)(1) OF THE FEDERAL
RULES OF CIVIL PROCEDURE, THAT THE ACTION COULD BE MAINTAINED
AS A CLASS ACTION. THE DISTRICT COURT RENDERED THE CONTESTED
ORDER ON 11/29/2021 AND IT WAS ENTERED ON 5/17/2021
SO THAT THIS APPLICATION IS TIMELY WITHIN 14 DAYS OF THE
ENTRY OF THE CHALLENGED ORDER

(2.) THE DISTRICT COURT'S ORDER WAS ERRONEOUS AND
SHOULD BE REVERSED BY THIS COURT BECAUSE OF THE LAW
OF THE CASE THAT WAS MENTIONED IN THE ORDER FOR
THE CASE TO BE DISMISSED BY THE DISTRICT COURT. IT WAS
SO CONTRARY TO THE GREAT WEIGHT AND PREPONDERANCE OF
THE EVIDENCE AS TO CONSTITUTE A MANIFEST INJUSTICE
OR IT WAS BASED ON AN ERRONEOUS VIEW OF LAW GOVERNING
THE CERTIFIABILITY OF THE CLASS ACTIONS UNDER RULE 23(C)
(1)(B) OF THE FEDERAL RULES OF CIVIL PROCEDURE. IN PARTICULAR
THE COURT ERRED IN DETERMINING THE FACTS OF US AS
INMATES HOUSED IN A PRISON CONFINEMENT AND OUR
CONSTITUTIONAL RIGHTS AS PRISONERS AND PRETRIAL DETAINEES
WHO HAVE THE RIGHTS TO THE FOURTH AMENDMENT AGAINST
UNREASONABLE SEARCH AND SEIZURES IN WHICH ALSO FITS
THE CATEGORY OF A UNLAWFUL AND INVASIVE AND INTENSIVE
SURVEILLANCE BY THE GENERAL PUBLIC AND THE POLICE
OFFICIALS IN PURSUANT TO 50 U.S.C. § 1801 AND 18 U.S.C. § 2510
IN WHICH WE'RE ALL UNDER GOING BY THE GLED, AND THE
HARTSVILLE S.C. POLICE DEPT AT THE BUTNER F.M.C
BY THE POLICE OFFICIALS. THE COURT MUST CONSIDER THE
SCOPE OF THE PARTICULAR INTERUSION, THE MANNER IN WHICH
IT IS CONDUCTED, THE JUSTIFICATION OF INITIATING IT,
AND THE PLACE IN WHICH IT IS CONDUCTED SEE UNITED STATES V.
RAMSEY, 431 U.S. 606 (1977) KATZ V. UNITED STATES, 389 U.S. 637 (1967)

WE'RE ALSO UNDERGOING A DEPRIVATION OF THE 14TH AMENDMENT OF THE U.S. CONSTITUTION OF THE DUE PROCESS AS WELL AS THE EQUAL PROTECTION OF ALL THE LAWS OF OUR PROCEDURES AT THE FEDERAL MEDICAL CENTER OF BUTNER N.C. IN WHICH WOULD BE A SUFFICIENT BASIS TO CERTIFY A CLASS UNDER RULE 23(b)(1)(B) WITHOUT ANY ANALYSIS OF WHETHER OR TO WHAT EXTENT THE INSURED PARTIES WOULD OR COULD CONTRIBUTE IN ADDITION TO THE INSURANCE AVAILABLE IN THE CASE

(B) THE COURT SHOULD EXERCISE IT'S DISCRETION UNDER RULE 23(F) OF THE FEDERAL RULES OF CIVIL PROCEDURE AND GRANT PERMISSION FOR AN IMMEDIATE INTERLOCUTORY APPEAL OF THIS CERTIFICATION DECISION BECAUSE OF THE ERRONEOUS VIEW OF THE LAW GOVERNING THE CLASS ACTION BEING CERTIFIED BY THE DISTRICT COURT AND ITS JUDGMENT IN THE ALLEGATION ALLEGED TO IT. THE DISTRICT COURT SHOULDN'T OVERLOOKED OUR RIGHTS AS PRISONERS HOUSED AT THE BUTNER F.M.C AND THE ILLEGAL SURVEILLANCE BY JUDICIAL AUTHORITY IN THE JURISDICTION OF EASTERN NORTH CAROLINA (WESTERN DIVISION) WHERE THE APPELLANT LARRY BLAKNEY AND THE CLASS MEMBERS ARE BEING SURVEILLANCE AND ENTRUED BY AN ILLEGAL INTERCEPTION THE CIRCUIT COURT SHOULD BE ABLE TO INTERCEDE ON THE INTERCEPTION TO SEE THAT IT'S NO DELUSION DO TO THE JUDICIAL OFFICER THAT'S SUPERVISING THE SURVEILLANCE THROUGH THE PROCEDURES IN PURSUANT 18 U.S.C § 2518(b) IN WHICH REQUIRE REGULAR STATUS REPORTS BY THE JUDGE THAT'S AUTHORIZING THE ELECTRONIC SURVEILLANCE. SEE, UNITED STATES V. HYDE, 574 F.2d 856, 889 (5TH CIR. 1978) COME TO FIND OUT THE JUDGE OVER THE ALLEGATION IN THE COMPLAINTS ARE RESPONSIBLE FOR THE SURVEILLANCE

THE JUDGE IN AUTHORIZATION OF THE SURVEILLANCE WE'RE UNDER GOING AT THE BUTNER F.M.C MUST REVIEW AND REPORT THE SURVEILLANCE SO THAT HE/SHE CAN SAFEGUARD THE RIGHTS OF THE INDIVIDUAL UNDER SURVEILLANCE. SEE CAUTH 625 F. SUPP. AT. 676. AN UNLAWFUL ELECTRONIC SURVEILLANCE IS NO DIFFERENT FROM A UNREASONABLE SEARCH AND SEIZURE AND PRIVACY RIGHTS WITHIN THE CONTEXT OF THE FOURTH AMENDMENT, SEE. BERGER V. NEW YORK, 388, U.S. 41, 87 S. CT. 1873, 18 L. ED 1040 (1967) IN WHICH WE'RE ALL BEING INVADDED AND INTERRUPTED IN OUR PERSONS AND PAPERS AT THE BUTNER F.M.C BY THE SLED (S.C. LAW ENFORCEMENT DIVISION), THE HARTSVILLE S.C POLICE DEPARTMENT, AS WELL AS THE FEDERAL MEDICAL CENTER OF BUTNER N.C. FOR AIDING AND ABETTING AND ALLOWING THEM TO DO THE ELECTRONIC SURVEILLANCE AT THE B.O. CONFINEMENT. IN WHICH IS A § 1983 CLAIM FOR ITS VIOLATION IN WHICH WAS FILED AND IS A FACTUAL CLAIM IN OUR ALLEGATION. A SEARCH/SURVEILLANCE IS REASONABLE WHEN CONDUCTED PURSUANT TO A WARRANT OR OTHER COURT AUTHORIZATION OR WHEN QUALIFYING FOR AN ESTABLISHED EXCEPTION. SEE UNITED STATES V. BREVO 435 F. 2d 1343, 1346 (11TH CIR. 2006) AND EVEN AUTHORIZED EXCEEDING THE SCOPE OF THE AUTHORIZATION CAN VIOLATE THE FOURTH AMENDMENT. SEE C.F. HORTON V. CALIFORNIA 496 U.S. 128, 140, 110 S. CT. 2301, 110 L. ED. 2d 112 (1990) EVEN IF THE SCOPE OF THE "SEARCH/SURVEILLANCE EXCEEDS THAT PERMITTED BY THE TERMS OF A VALIDLY ISSUED WARRANT OR THE CHARACTER OF THE RELEVANT EXCEPTION FROM THE WARRANT REQUIREMENT, THE SUBSEQUENT SURVEILLANCE IS UNCONSTITUTIONAL THAT THE PLAINTIFF LARRY BARNES AND THE CLASS MEMBERS ARE UNDER GOING AT THE F.M.C OF BUTNER N.C BY THE SLED (S.C. LAW ENFORCEMENT DIVISION), HARTSVILLE S.C POLICE DEPARTMENT INCLUDING THE BUTNER F.M.C FOR ALLOWING THEM TO USE THE PRISON TO FACILITATE THE

UNLAWFUL INVASION AND INTRUSION IN PURSUANT TO 50 U.S.C §1801 AND 18 U.S.C §2510 IN WAYS THAT'S VIOLATING OUR CONFINEMENT REGULATIONS AS WELL AS OUR CONSTITUTIONAL RIGHTS AS PRISONERS HOUSED IN A BRANCH OF THE B.O.P. SEE. BELL V. WOLFISH 441 U.S. 520, 99 S. Ct. 1861, 60 L. Ed. 2d. 447 (1979) IN THE BELL COURT THERE WAS AN ALTERCATION SIMILAR WHERE THE 9TH CIRCUIT WAS ASK TO REVIEW THE COURT'S DECISION TO ENJOIN LOCAL SHERIFF FROM USING A WEBCAM TO BROADCAST THE IMAGES OF PRE-TRIAL DETAINEES OVER THE INTERNET AND OTHER MEDIA OUTLETS. THE SHERIFF ARGUED...

(A.) THE WEBCAM SERVED THE LEGITIMATE PENOLOGICAL INTEREST OF DETERRING CRIME, AS WELL AS OPENING THE JAILS TO PUBLIC SCRUTINY

(B.) THE TURNER TEST SHOULD BE APPLIED; AND

(C.) THE DISTRICT COURT INAPPROPRIATELY APPLIED STRICT SCRUTINY, TOO HARSH A STANDARD UNDER THE CIRCUMSTANCE

"THE APPELLATE COURTS RESPONSE WAS"

(A) THE BELL TEST APPLIES BECAUSE THE MATTER INVOLVES PRE-TRIAL DETAINEES AND NOT CONVICTS

(b.) THE WEBCAM/SURVEILLANCE DO HARM THE PRE-TRIAL DETAINEES; AND

(C.) THE REASON THE SHERIFF ADVANCES ARE NOT LEGITIMATE I.E IMPOSING ADVERSE CONDITIONS DOING PRE-TRIAL CONFINEMENT AS MEANS OF DETERRING CRIMES IS NOT PERMISSIBLE

IN BELL V. WOLFISH; THE BELL COURT MADE A CONFIRMATION THAT ALL INMATES AND PRISONERS REMAIN CONSTITUTIONAL RIGHTS TO THEIR RIGHTS OF THE FOURTEENTH AMENDMENT DUE PROCESS CLAUSE AS WELL AS THE RIGHT WITHIN ITS JURISDICTION NOT TO BE DENIED THE EQUAL PROTECTION OF THE LAWS

IN BELL V. WOLFISH; THE BELL COURT ALSO TOOKED IN CONSIDERATION THAT COURTS MUST CONSIDER THE SCOPE OF THE PARTICULAR INTRUSION, THE MANNER IN WHICH ITS CONDUCTED, AND THE JUSTIFICATION FOR INITIATING IT (CITING DALEWOOD HOLDING LLC V. CITY OF BALDWIN PARK: APRIL 13, 2001) (WHICH WILL MAKE IT INSUFFICIENT FOR OUR ALLEGATION TO BE DISMISSED IF IT WAS REVIEWED PROPERLY BY THE DISTRICT COURT IN WHICH IT WAS ALLEGED

WE'RE ALL BEING SURVEILLANCE AND INTRUDED BY THE SLED, AND THE HARTSVILLE S.C POLICE THROUGH THE AUTHORIZATION OF THE COURT IN THE EASTERN DIVISION OF NORTH CAROLINA (WESTERN DIVISION) JURISDICTION UNDER THE REQUIREMENTS OF FED. R. CRIM. P. 41 IN A UNLAWFUL AND INVASIVE WAY AT THE FEDERAL MEDICAL CENTER OF BUTNER N.C WHO ARE AIDING AND ABETTING BY ALLOWING THEM TO USE THEIR VENUE, THE DEFENDANTS HAVE BEEN PERFORMING THE INTRUSION SINCE THE ARRIVAL OF THE APPELLANT LARRY BLAKNEY WHO'S ORIGINALLY FROM HARTSVILLE S.C IN WHOM IS THE MAIN TARGET OF THE INTRUSION; AS THEY INTRUDE ~~THE~~ LARRY BLAKNEY VIA GATE, PASTOR GATE; WE'RE ALL BEING INVADED IN OUR HOUSING AREAS (CELLS), PERSONS, PAPERS AND EFFECTS BY THE UNLAWFUL SURVEILLANCE IN PURSUANT TO 50 U.S.C. § 1801, THE SURVEILLANCE IS GIVING THE DEFENDANTS THE ABILITY TO WATCH AND INVADE LARRY BLAKNEY JAIL CELL AS WELL AS THE OTHER PRE-TRIAL DETAINEES WHERE WE HAVE TO URINATE AND DEFECATE, IN WHICH IS A MAJOR 4TH AMENDMENT

VIOLATION THAT'S EXPOSING US TO THE GENERAL PUBLIC AS WE TAKE
SHOWERS AND ARE IN THE NUDE IN WHICH HAVE BEEN TAKING
PLACE FOR A GREAT DURATION OF TIME AT THE F.M.C

THE SUPREME COURT HAVE BEEN MORE RECEPTIVE TO INMATES
RIGHTS TO PRIVACY CLAIM GROUNDED ON THEIR CONTACT WITH
CORRECTIONAL OFFICERS. COURTS HAS LIMITED THE EXTENT TO
WHICH INMATES CAN BE SEEN IN THE NUDE OR WHILE USING
THE TOILET BY CORRECTIONAL OFFICERS, BY RESPECTING THE
INMATES RIGHT-TO-PRIVACY AND ALLOWING THEM TO BRIEFLY
COVER THE WINDOW OF THE DOOR WHILE THEY ARE DRESSING
ARE USING THE TOILET, SEE UNITED STATES V. RAMSEY, 431 U.S.
606 (1977); UNITED STATES V. MARTINEZ-FUERTE, 428 U.S. 543
(1976); UNITED STATES V. BRIGNONI-PONCE, 402 U.S. 873 (1970);
TERRY V. OHIO, 392 U.S. 1 (1968) KATZ V. UNITED STATES, 389
U.S. 347 (1967); SCHMERBEE V. CALIFORNIA, 384 U.S. 757 (1966)
IN WHICH SHOULD LEAD TO NO EXCEPTION FOR INMATES AND
PRISONERS TO BE INTENDED AND INVADDED IN THESE ASPECTS
BY THE POLICE OFFICIALS AND THE GENERAL PUBLIC THE WAY
WE'RE AT THE FEDERAL MEDICAL CENTER OF BUTNER N.C.
THE COURT MUST CONSIDER THE SCOPE, THE MANNER, THE JUSTIFICATION
AND THE PLACE IN WHICH THE SURVEILLANCE IS BEING CONDUCTED.
SEE RAKAS V. ILLINOIS, 439 U.S. 128, 99 S. Ct. 421, 58 L. Ed. 2d. 337
(1978) WHICH SAY CHANGING REQUIREMENT THAT OBSERVING POLICE
OFFICER MUST BE LEGITIMATELY ON PREMISES; EVEN IF THE OFFICER
IS NOT ON PREMISES FOR LEGITIMATE PURPOSE HIS OBSERVATION
MAY BE USED AGAINST DEFENDANT IF COURT FINDS OUT
THAT DEFENDANT HAD NO "REASONABLE EXPECTATION OF PRIVACY"

THE POLICE OFFICERS AND THE COURT ARE SURVEILLING US
ON THE PREMISES OF THE F.M.C OF BUTNER N.C IN WAYS
THAT'S NOT LEGITIMATE AND IN VIOLATION OF OUR FOURTH
AMENDMENT "REASONABLE EXPECTATION OF PRIVACY" AND
WE'RE ALL BEING INVADDED IN OUR HOUSING AREAS (CELLS) PERSONS,
PAPERS AND EFFECTS BY THE UNLAWFUL SURVEILLANCE IN PURSUANT
TO 50 U.S.C § 1801 AND 18 U.S.C § 2510, IN WHICH IS ALSO A
VIOLATION OF THE ILLINOIS EAVESDROPPING LAW IN WHICH
THE SUPREME COURT ENACTED A LAW MAKING IT A CRIME

FOR THE LAW ENFORCEMENT OFFICERS TO USE THE DEVICE THE WAY IT'S BEING USED see PLOCK v. Bd. of Educ. of Freeport Sch. District No. 145, 396 Ill. App. 3d 960 N.E. 2d 1087, 1095, 336 Ill. Dec. 497 (Ill. App. Ct. 2009). THE EAVES DROPPING LAW ALSO EXEMPTS ANY RECORDING MADE FOR "BROADCAST BY RADIO, TELEVISION OR OTHERWISE" FOR LIVE OR "LATER BROADCAST OF ANY FUNCTION WHERE THE PUBLIC IS IN ATTENDANCE AND THE CONVERSATIONS ARE OVERHEARD, THE LAW ENFORCERS ARE USING THE DEVICES JUST SO THE APPELLANT CONVERSATION CAN BE OVERHEARD BY THE GENERAL PUBLIC AND BROADCASTED THROUGH THE MEDIA OUTLETS THROUGH LIBELS, SLANDERS, AND DEFAMATORY COMMUNICATION THROUGH "THROUGH BROADCASTING BY RADIO AND TELEVISION"

THE LAW ENFORCEMENT OFFICERS ARE SURVEILLING THE APPELLANT WITHOUT HIS CONSENT AND APPROVAL, THE LAW ENFORCEMENT OFFICERS ARE USING THE DEVICES SO THAT THEY CAN BROADCAST FALSE DEFAMATORY STATEMENTS AGAINST A FEDERAL LAW (CONSTITUTIONAL ACTUAL-MAICE RULE) OUT OF MALICE OF HOW THE APPELLANT LARRY BLAKNEY B.K.A. GATE, PASTOR GATE LOOKS TO THEM, THE DEFENDANTS SAY THAT THEY DON'T LIKE THE WAY THE APPELLANT LOOKS THEREFORE THEY'RE BROADCASTING DEFAMATORY STATEMENTS OUT OF HATRED AND ACTUAL WILL WITH FEELINGS ABOUT THE APPELLANT LARRY BLAKNEY B.K.A. GATE, PASTOR GATE BEING A FAKE, A CRACKHEAD AND MURDERING THE MOTHER OF JULIUS HAZLER A.K.A. JU B.K.A. J-BLADE IN PURSUANT TO 28 U.S.C. § 1367 WITH FAISITVY AND RECKLESS DISREGARD OF THE TRUTH SO THAT WE ALL CAN HEAR THE LIBELS AND SLANDERS BEING THROUGH RADIO AND TELEVISION ON A DAILY BASIS, THE COURT CAN CHECK THE APPELLANT CRIMINAL HISTORY RECORDS TO SEE THAT HE NEVER COMMITTED THE MURDER OF JULIUS HAZLER A.K.A. JU B.K.A. J-BLADE MOTHER, WE ALL KNOW THAT HE'S SURELY NOT SMOKING NO CRACK AND ISN'T A CRACK SMOKER BECAUSE HE'S LOCKED-UP WITH US AT THE F.M.C OF BUTNER N.C. THE STATEMENT ABOUT STATEMENT ABOUT THE APPELLANT BEING A FAKE IS A LIBEL, SLANDER AND DEFAMATORY STATEMENT THE LAW ENFORCERS ARE HAVING BROADCASTED THROUGH

THE RADIO STATIONS AND TELEVISION MEDIA OUTLETS ARE SLANDERS TO RUIN HIS NAME AND REPUTATION, HUMILIATE, EMBARRASS HIM, DISGRACE HIM AND CAUSE ^{HIM} TO BE PICKED ON AND RIDICULED BY THE INMATES AT THE FEDERAL MEDICAL CENTER OF BUTNER N.C., AS WELL AS A WAY FOR THE LAW ENFORCER TO CAUSE THE APPELLANT LARRY BLAKNEY TO BE PICKED ON BY HIS ASSOCIATES AND HELD TOWARDS A PUBLIC RIDICULE AND PUBLIC SCORN IN THE COMMUNITY SEE: DI BELLA V. HOPKINS, 403 F.3d. 102, 110 (2d. CIR 2005) (CITING NEW YORK TIMES CO. V. SULLIVAN, 376 U.S. 254, 84 S. CT. 710, 11 L. ED. 2d 686 (1964); GERTZ V. ROBERT WEICH INC. 418 U.S. 323, 94 S. CT. 2997, 41 L. ED. 2d 789 (1974) (QUOTING) FRANKLIN V. THOMPSON, 722 SO. 688, 690 (MISS) 1; ARMISTED V. MINOR, 815 SO. 2d. 1189, 1193 (MISS 2002) SO THAT THEY CAN INJURE THE APPELLANT TRADE AND PROFESSION OF HIS MINISTRY IN WHICH THE APPEAL COURT CAN GOOGLE "GATE MOVEMENT RECORDS" TO PREVIEW LARRY BLAKNEY MINISTRY ONLINE. THE LAW ENFORCEMENT OFFICIALS ARE USING THESE METHODS TO DEPRIVE THE APPELLANT LARRY BLAKNEY OF HIS PRIVILEGE TO USE HIS FACEBOOK SOCIAL MEDIA OUTLET AS A VENUE TO EXERCISE HIS RELIGION WITH LIKE MENDED PEOPLE IN VIOLATION OF THE 1ST, 9TH, 14TH AMENDMENT TO THE CONSTITUTION (THE ESTABLISHMENT CLAUSE) WHICH CLEARLY STATES AND MANDATES THAT THE CONGRESS SHALL MAKE NO LAW RESPECTING AN ESTABLISHMENT OF RELIGION OR PROHIBITING THE FREE EXERCISE THEREOF, IN WHICH IS ALL RATIFIED BY THESE CONSTITUTIONS OF THE UNITED STATES

WE'RE ALL WITNESSING AND BEING EFFECTED FROM THE HARASSMENTS THAT THE APPELLANT LARRY BLAKNEY IS UNDER GOING AT THE F.M.C AS THEY ALLOW THE COURT TO USE THE BUTNER F.M.C AS A VENUE TO ALLOW THE SLED, HARTSVILLE S.C POLICE OFFICERS AND THE GENERAL PUBLIC, TO HARASS, BLACKMAIL AND EXTORT THE APPELLANT LARRY BLAKNEY ABOUT REMOVING HIS FACEBOOK SOCIAL MEDIA IN PURSUANT TO 18 U.S.C. 872 AND 18 U.S.C. 873 THROUGH THE DAY AND NIGHT FOR US ALL TO HEAR

(A) THIS MASS TORT CASE, IF PERMITTED TO PROCEED TO TRIAL AS A CLASS ACTION ON THE BASIS SET OUT IN THE CHALLENGED ORDER, WILL RESULT IN A MASSIVE WASTE OF JUDICIAL RESOURCES AND IS LIKELY TO IMPOSE RUINEOUS EXPENSE ON THE MOVING PARTY FOR NO JUSTIFIABLE REASON

(B) THE DISTRICT COURT IN THIS CIRCUIT HAVE COME TO CONTRICTING POSITIONS ON WHETHER TO WHAT EXTENT, AND THE FACTUAL SHOWING REQUIRED FOR CERTIFICATION INSURANCE LIMITS AMOUNT TO A LIMITED "COMMON FUND" CLASS MEMBERS AMOUNT TO RACE OF THE COURTHOUSE AND THE SUBSTANTIALLY IMPAIR OR IMPEDE THE INTEREST OF LATER FILING CLASS MEMBERS. THIS UNIQUE AND UNSETTLED QUESTION OF LAW SHOULD BE RESOLVED FOR THE BENEFIT OF THE NUMEROUS ACTION PROCEEDING IN THIS THEORY

U.S. COURT OF APPEALS FOR THE FOURTH CIRCUIT

LARRY BLAKNEY # 34750171 et al
APPELLANT

V.S

SLED, HARRISVILLE S.C. POLICE DEPARTMENT
UNITED STATES OF AMERICA
APPELLEE

APPEAL NO. 21-7717

DISTRICT CT. NO.
5:21-CV-03071-FL

DISTRICT JUDGE
JUDGE / CLERK WOOD FLANNAGAN

PETITION FOR LEAVE TO APPEAL
FROM INTERLOCUTORY ORDER

LARRY BLAKNEY APPELLANT AND RESIDENCE OF THE FEDERAL MEDICAL CENTER OF BUTNER N.C. ADDRESS P.O. BOX 1600 BUTNER N.C. 27509 PETITIONS THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT FOR PERMISSION TO APPEAL AN INTERLOCUTORY ORDER ISSUED BY THE UNITED STATES DISTRICT COURT

1) THIS PETITION IS MADE PURSUANT TO SECTION 1292(b) OF TITLE 28 OF THE UNITED STATES CODE SECTION AND RULE 5 OF THE FEDERAL RULES OF APPELLATE PROCEDURE

2) THE ORDER THAT IS THE SUBJECT OF THIS PETITION IS IN PURSUANT TO 28 U.S.C. § 2106 see *MACKEY v. BOARD OF EDUC.*, 386 F.3d 158, 163 (2d Cir. 2004). AN ORDER DENYING MOTION FOR SUMMARY JUDGMENT WAS ENTERED BY THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA ON 11-21-2021 (DATE) A ORDER AND COPY OF THIS IS ATTACHED TO PETITION AS EXHIBIT

(3) THIS ORDER QUALIFIES FOR A PERMISSIVE APPEAL BECAUSE THE UNITED STATES JUDGE, IN HER ORDER, STATED THAT THE CASE INVOLVED A CONTROLLING QUESTION OF LAW AS TO WHICH THERE IS SUBSTANTIAL GROUND FOR DIFFERENCE OF OPINION AND THAT AN IMMEDIATE APPEAL FROM THE ORDER WOULD MATERIALLY ADVANCE THE ULTIMATE TERMINATION OF THE LITIGATION

(4) THE FACTS NECESSARY TO RESOLVE THE CONTROLLING QUESTION OF LAW ARE THAT THE APPELLANT LARRY BARNES AND THE CLASS MEMBERS ARE ALL INMATES HOUSED AT THE FEDERAL MEDICAL CENTER OF BUTNER N.C. IN WHICH HE OBTAIN CONSTITUTIONAL RIGHTS AS PRISONERS HOUSED IN THE B.O.P. CONFINEMENT. SEE *BEIL V. WOLSH* 441 U.S. 520, 559, 99 S. CT. 1861, 60 L. ED 447 (1977) THE DISPUTE ARISES OUT OF THE FACT THAT OUR 4TH AMENDMENT AND 14TH AMENDMENT TO THE CONSTITUTION IS BEING VIOLATED BY THE DEFENDANTS, THE SLED, THE HARTSVILLE S.C. POLICE DEPT AS WELL AS THE F.M.C. OF BUTNER N.C. FOR ALLOWING THE COURT TO AUTHORIZE THE UNREASONABLE ELECTRONIC SURVEILLANCE IN PURSUANT TO 50 U.S.C. § 8601 AND 18 U.S.C. § 2510, SO THAT THE SLED, THE HARTSVILLE S.C. POLICE OFFICIALS CAN INVADE AND INTERUDE US IN OUR HOUSING AREAS (CELLS) PERSONS AND PAPERS, AS THEY ALLOW THE PEOPLE FROM THE GENERAL PUBLIC OF HARTSVILLE S.C. BE IN ATTENDANCE TO THE INTERCEPTION IN WHICH IS A PROHIBITION UNDER THE ILLINOIS EAVESDROPPING LAW SEE *PEOPLE V. BEARDSLEY*, 115 Ill. 2d 47, 503 N.E. 2d 346, 349-50, 104 Ill. DEC. 789 (Ill. 1986) AS THE SLED, THE HARTSVILLE S.C. POLICE OFFICIALS UNLAWFULLY SURVEILLANCE LARRY BARNES AKA GATE B. KA PASTOR GATE WHO IS ORIGINALLY FROM HARTSVILLE S.C. THROUGH THE SURVEILLANCE AND COMMUNICATING DEVICES ABOUT REMOVING HIS FACEBOOK SOCIAL MEDIA OUTLET AND YOUTH MINISTRY ACTIVITY THROUGH HARASSMENTS AND DEFAMATORY COMMUNICATION WE'RE ALL UNDERGOING A DUE PROCESS AND UNREASONABLE SURVEILLANCE AS WELL AS MAJOR PRIVACY VIOLATIONS THROUGH THE UNLAWFUL SURVEILLANCE THAT BEING COMMITTED BY THE POLICE OFFICIALS AND THE AUTHORIZATION OF THE COURT IN THE EASTERN DISTRICT OF NORTH CAROLINA (WESTERN DIVISION)

THE UNLAWFUL SURVEILLANCE IS NO DIFFERENT FROM A UNREASONABLE SEARCH AND SEIZURE AS WELL AS A PRIVACY VIOLATION WITHIN THE CONTEXT OF THE FOURTH AMENDMENT see *BERGER V. NEW YORK*, 398 U.S. 41, 51, 87 S. Ct. 1873, 18 L. Ed. 1040 (1967) IN WHICH WE'RE ALL BEING INVADED AND INTERRUPTED IN OUR HOUSING AREA (CELLS) PERSONS AND PAPERS AT THE BUTNER F.M.C. BY THE SLED, (S.C. LAW ENFORCEMENT DIVISION) THE HARTSVILLE S.C. POLICE DEPARTMENT AS WELL AS THE BUTNER F.M.C. FOR ALLOWING THROUGH AIDING AND ABETTING TO DO THE ELECTRONIC SURVEILLANCE AT THE B.O.P. CONFINEMENT SO THAT WE CAN BE WATCHED THROUGH IT IN AREAS WHERE WE HAVE TO USE THE TOILET AND BE SEEN IN THE NUDE AS WE SHOWER BY THE PEOPLE IN ATTENDANCE TO THE SURVEILLANCE. SEE *UNITED STATES V. RYE* 800 F.2d 1034, 1038 (5TH CIR. 1986) (QUOTING *RAKAS*, 439 U.S. AT 143) AS THE COURT AUTHORIZE THE APPELLANT LARRY BLAKNEY AKA GATE, PASTOR GATE TO BE WATCHED BY THE ELECTRONIC SURVEILLANCE THAT'S BEING AUTHORIZED BY THE COURT AND THE DEFENDANTS, THIS COURT WAS PRESENTED WITH IDENTICAL ISSUE.

IN REACHING ITS DECISION IN THE CASE PRESENTED TO THE DISTRICT COURT, THIS COURT STATED:

THE COURT NEVER MENTIONED IN THE DISMISSAL ORDER ^{NO} ~~NO SPECIFIC~~ REASON FOR MAKING A DECISION OF DENYING THE SUMMARY JUDGMENT THAT WAS SUBMITTED. ALL THE MOTIONS THAT WAS SUBMITTED TO THE COURTS WAS BASED ON FACTS ABOUT THE SITUATION WE ALLEGED IN THE ALLEGATION IN WHICH THE COURT ERRED IN THE JUDGMENT OF THE LAWS GOVERNING THE CITATIONS OMITTED. *GROSSO V. UNITED STATES*, 390 U.S. 62, 71-72, 88 S. Ct. 709, 19 L. Ed. 2d 906 (1968) (28 U.S.C. § 2106) AUTHORIZES RENDERING JUDGMENT RATHER THAN REMANDING ON ISSUE WHEN RECORD WOULD PERMIT ONLY ONE CONCLUSION WE ALLEGED RELIEF OF INJUNCTION AS WELL AS A FILING OF A MOTION FOR TEMPORARY RESTRAINING ORDER DUE TO THE INTEREST OF US BEING INVADED BY THE PUBLIC AND THE IRREPARABLE HARM THAT'S BEING PUT OUT THROUGH THE ACTUAL MALICE THAT THE SLED AND THE HARTSVILLE S.C. POLICE OFFICIALS IS PUTTING TO INFLUENCE PEOPLE TOWARDS DISREPUTE. SEE *AMANDOLA V. TOWN OF BABYLON*, 551 F.2d 339, 343-344 (2d CIR. 2001) (ON INTERLOCUTORY APPEAL FROM GRANT OR DENIAL OF PRELIMINARY INJUNCTION, CIRCUIT COURT MAY RESOLVE CASE ON MERITS, IF FACTS ARE NOT DISPUTED AND PARTIES HAVE PRESENTED THEIR ARGUMENTS TO COURT)

WE ALLEGED RELIEF FOR AN INJUNCTION AS WELL AS A TEMPORARY RESTRAINING ORDER FROM THE COURT BECAUSE OF THE PUBLIC INTEREST AND IRREPARABLE HARM WE'RE ALL UNDER GOING DO TO THE INTRUSION, INVASION, AND HARASSMENT, THAT'S CAUSING US TO SUFFER FROM SEVERE MENTAL ANGUISH IN WHICH THE DISTRICT COURT IGNORED IN ABUSE OF DISCRETION BY NOT PROBABLY APPLYING THE FACTOR DO TO THE ALLEGATION WE ALLEGED SEE. *FARRIS V. SEABROOK*, 677 F.3d 858, 865 (9TH CIR 2012) ("THE DISTRICT COURT'S ERROR WAS HARMFUL BECAUSE PLAINTIFFS' SHOWING SATISFIES ALL FOUR PRONGS OF THE WINTER FACTOR IN WHICH ARE DE NOVO. SEE. *ESSO STD. OIL CO. (P.R.) V. MUJICA COTTO*, 389 F.3d 212, 217 (1ST CIR. 2004) (WHEN DISTRICT COURT'S DENIAL OF PRELIMINARY INJUNCTION IS BASED PRIMARILY ON LEGAL CONCLUSION, COURT OF APPEALS' REVIEW IS DE NOVO) ALSO SEE. *FIREMAN'S FUND INS CO. V. LESLIE BELLOTT CO*, 867 F.2d 150, 150-151 (2d CIR, 1989) (DEFERENCE INHERENT IN ABUSE OF DISCRETION STANDARD IS INAPPROPRIATE WHEN PROCEEDINGS IN DISTRICT COURT DID NOT INCLUDE EVIDENTIARY HEARING NOR REASON WHY SUCH HEARING WAS UNNECESSARY WE'RE TRYING TO GET THE SED, THE HARTSVILLE S.C POLICE DEPT. TO REFRAIN FROM THE SURVEILLANCE AND HARASSMENTS THAT'S BEEN AUTHORIZED BY THE COURT IN THE EASTERN DISTRICT OF NORTH CAROLINA IT'S CAUSING A MAJOR INTERFERENCE WITH THE APPELLANT LARRY BLAKNEY PROCEEDINGS AS WELL AS THE CLASS MEMBERS AT THE FEDERAL MEDICAL CENTER OF BUTNER NORTH CAROLINA, WERE IN DIRE NEED FOR THE CIRCUIT TO ENFORCE THE INJUNCTION FOR THE COURT TO STOP THE SURVEILLANCE, SEE *AUTO DRIVEWAY FRANCHISE SYS. LLC V. AUTO DRIVEWAY RICHMOND, LLC*, 917 F.3d 670, 676-679 (7TH CIR. 2019) (PURPORTED PRELIMINARY INJUNCTION IS APPEALABLE UNDER 28 U.S.C. § 1292(a)(4) IF IT CONTAINS ENOUGH CONTENT TO PERMIT EFFECTIVE ENFORCEMENT.

(5) THE CONTROLLING QUESTION OF LAW PRESENTED BY THIS PETITION FOR RESOLUTION IS HOW CAN THE DISTRICT COURT IN WHICH IT'S AUTHORIZING THE ELECTRONIC SURVEILLANCE, THAT'S ALSO RESPONSIBLE FOR THE JUDICIAL SUPERVISION OF THE SURVEILLANCE AS WELL AS THE REVIEW AND REPORTS OF THE SURVEILLANCE IN WHICH THEY ARE OBLIGATED TO SAFEGUARD THE RIGHTS OF THE INDIVIDUALS THAT'S BEING WATCHED THROUGH THE ELECTRONIC SURVEILLANCE

DISREGARD OUR RIGHT TO BE FREE FROM A UNLAWFUL SURVEILLANCE IN WHICH IS NO DIFFERENT FROM A UNREASONABLE SEARCH AND SEIZURE AS WELL AS A PRIVACY VIOLATION WITHIN THE CONTEXT OF THE FOURTH ADMEMENT. SEE. *Belgers v. New York*, 388 U.S. 41, 51, 87 S. Ct. 1873, 11 L. Ed 1040 (1967) (CITING) *UNITED STATES v. Kye Soo Lee* 898 F. 2d 1034, 1038 (5th Cir. 1990) IN WHICH IS ALLOWING US TO BE WATCH AS WE'RE IN THE NUDE IN THE SHOWERS IN PURSUANT TO 18 U.S.C. § 1801 IN WHICH IS A VOYEURISM. THE COURT IS ALSO ALLOWING THE POLICE OFFICERS TO SURVEILLANCE THE APPELLANT LARRY BLAKLEY IN HIS CELL AREA IN WHICH HE HAVE TO USE HIS TOILET IN PURSUANT TO 50 U.S.C. § 1801 AND 18 U.S.C. § 2510 WERE ALL UNDER GOING THE SAME TREATMENT OF THE VIOLATION THAT ALLOWING US TO BE INTERUPTED AND INVADDED IN OUR HOUSING AREAS (CELLS) PERSONS, PAPERS AND EFFECTS, IN WHICH IS A MAJOR CONFINEMENT VIOLATION. SEE. *Bell v. Wolfish* 441 U.S. 520, 559, 99 S. Ct. 1861, 60 L. Ed 2d 447 (1979) IN WHICH IS A 14TH AMENDMENT (DUE PROCESS VIOLATION) (AS WELL AS A DISREGARDING OF THE EQUAL PROTECTION OF ALL THE LAWS, AS A MATTER OF LAW IS STARE DECISIS IN THE PRESENT ACTION

(6) THIS QUESTION IS CONTROLLING BECAUSE IT REVOLVES AROUND OUR 4TH AND 14TH AMENDMENT TO THE CONSTITUTION IN WHICH IS RIGHTS WE RESERVE AS PRISONERS HOUSED IN THE BOY AND ITS CONFINEMENT IN WHICH GIVES US RIGHTS OF PRIVACY IN CERTAIN AREAS AS WELL AS THE EQUAL PROTECTION OF ALL THE LAWS AS WELL AS THE DUE PROCESS CLAUSE IN A PRISON CONFINEMENT. SEE. *Bell v. Wolfish* 441 U.S. 520, 559, 99 S. Ct. 1861, 60 L. Ed 2d 447 (1979) THE PLAINTIFF HAS MOVED FOR SUMMARY JUDGMENT ON THE GROUND OF STARE DECISIS BASED ON THE PREVIOUS OPINION OF THIS COURT IN *Mackey v. Board of Educ* 386 F. 3d 158, 163 (2d Cir. 2004) (CIRCUIT COURT MAY DIRECT DISTRICT COURT TO ENTER SUMMARY JUDGMENT IN FAVOR OF APPELLANT, EVEN IF APPELLANT NEVER MOVED FOR SUMMARY JUDGMENT, IF ALL ISSUES WERE BEFORE DISTRICT COURT AND NO MATERIAL ISSUE OF FACT IS DISPUTED) IN THAT SUMMARY JUDGMENT MOTION, THE PLAINTIFF AND PETITIONER URGED THAT THE PRIOR DECISION OF THIS COURT ANSWERED THAT QUESTION IN THE AFFIRMATIVE. IN ITS MEMORANDUM OF DECISION, ATTACHED TO THIS PETITION AS EXHIBIT — THE UNITED STATES DISTRICT COURT HAS ACKNOWLEDGED THAT, IF THE ANSWER TO THE QUESTION IS IN THE AFFIRMATIVE, THE DISTRICT COURT MUST FOLLOW THAT HOLDING AND GRANT THE PLAINTIFF MOTION FOR SUMMARY JUDGMENT

7. AN IMMEDIATE APPEAL WILL CLEARLY AND QUICKLY TERMINATE THE PENDING LITIGATION BECAUSE: DO TO THE FACTS OF THE LAWS AND THE CONSTITUTIONAL DEPRIVATION THAT WE'RE BEING ALLOWED TO GO THROUGH AS INMATES AND PRE-TRIAL DETAINEES HOUSED AT THE P.M.C. OF BUTNER N.C. BY THE SLED, THE HARTSVILLE S.C. POLICE DEPARTMENT THROUGH THE AUTHORIZATION OF THE COURT THAT'S ALLOWING US TO BE INVARED AND INTERUDED BY THE DEFENDANTS THROUGH THE ELECTRONIC SURVEILLANCE IN PURSUANT TO FED. R. CRIM. P. 41 SO THAT WE CAN BE EXPOSED TO THE GENERAL PUBLIC IN A UNREASONABLE SURVEILLANCE SO THAT PRIVACY CAN BE VIOLATED IN SEVERAL DIFFERENT ASPECTS SEE. *PELL V. PROCTOR* 417 U.S. 817, 94 S. Ct. 2800, 41 L. Ed. 2d 495 (1974) (WHICH STATES THAT THE REGULATION CHALLENGED HERE CLEARLY RESTRICTS ONE MANNER OF COMMUNICATION BETWEEN PRISON INMATES AND MEMBERS OF THE GENERAL PUBLIC BEYOND THE PRISON WALLS) ALSO SEE. *GROSSO V. UNITED STATES*, 390 U.S. 62, 71-72, 88 S. Ct. 709, 19 L. Ed. 2d. 906 (1968) (28 U.S.C. § 2106 AUTHORIZES RENDERING JUDGMENT RATHER THAN REMANDING ON ISSUE WHEN RECORD WOULD PERMIT ONLY ONE CONCLUSION) WE HAVE PRESENTED OUR ARGUMENT TO THE COURT THROUGH OUR ALLEGATION TO RECEIVE RELIEF FROM A PRELIMINARY INJUNCTION SO THAT THE COURT MAY SAFEGUARD OUR RIGHTS FROM THE PUBLIC INTEREST AS WELL AS IRREPARABLE HARM IN WHICH THE COURT ERRED IN JUDGMENT. SEE. *AMANDOLA V. TOWN OF BABYLON*, 251 F. 3d 339, 343-344 (2d Cir 2001) (ON INTERLOCUTORY APPEAL FROM GRANT OR DENIAL OF PRELIMINARY INJUNCTION, CIRCUIT COURT MAY RESOLVE CASE ON MERITS IF FACTS ARE NOT DISPUTED AND PARTIES HAVE PRESENTED THEIR ARGUMENT TO COURT)

(A) THE DISTRICT COURT ACKNOWLEDGED THAT IT DENIED SUMMARY JUDGMENT BECAUSE IT WAS UNCERTAIN AS TO THE NATURE AND EFFECT OF THE DECISION OF THIS COURT REGARDING THE DE FACTO ISSUE. THE DISTRICT COURT FOUND THAT A SUBSTANTIAL BASIS EXISTS FOR A DIFFERENCE OF OPINION ON THE EFFECTS OF THE CASE BECAUSE THERE MAY HAVE BEEN ~~SEVERAL~~ GROUNDS ON WHICH THE COURT REACHED ITS DECISION IN THE PREVIOUS ACTION.

(B) EVEN IF THE DEFENDANTS POSITION WERE TO PREVAIL ON APPEAL, THE ACTION WOULD BE TERMINATED BECAUSE THE SOLE BASIS FOR ASSERTING LIABILITY AGAINST THE DEFENDANT WOULD DISAPPEAR

8. AN IMMEDIATE APPEAL SHOULD BE ALLOWED IN THIS CASE BECAUSE OF THE CONSTITUTIONS AND THE LAWS THAT ARE BEING VIOLATED BY THE SLED (S.C. LAW ENFORCEMENT DIVISION), THE HARTSVILLE S.C. POLICE DEPARTMENT AS WELL AS THE FEDERAL MEDICAL CENTER OF BUTNER N.C. FOR ALLOWING THE EASTERN DISTRICT COURT OF NORTH CAROLINA TO SURVEILLANCE US THROUGH A UNLAWFUL AND UNREASONABLE SURVEILLANCE THAT'S VIOLATING OUR PRIVACY AND INTERUDING US IN OUR HOUSING AREAS (CELLS) AS WELL AS OUR PAPERS AND EFFECTS AS THE POLICE OFFICIALS MAKE A ATTEMPT TO MAKE THE APPELLANT LARRY BLAKNEY A.K.A PASTOR GATE, B.K.A GATE WHO'S IS ORIGINALLY FROM HARTSVILLE S.C. ~~RE~~ REMOVE HIS FACEBOOK SOCIAL MEDIA OUTLET THROUGH HARASSMENTS, AND DEFAMATORY COMMUNICATION OUT OF MALICE IN WHICH IS BEING ADVERTISED THROUGH RADIO AND TELEVISION THROUGH LIBELS AND SLANDERS ABOUT THE APPELLANT BEING A FAKE, A CRACKHEAD, AND MURDERING SOMEONE THAT HE DIDN'T MURDERED. THE POLICE OFFICIAL ARE ADVERTISING THE DEFAMATORY STATEMENTS WITH RECKLESS DESREGAARD OF THE TRUTH. SEE ARMISTEAD V. MINOR 815 SO. 2d 1189, 1193 (MISS. 2002) CITING FRANKLIN V. THOMPSON 722 SO. 2d 688, 692 (MISS. 1998) IN WHICH WE KNOW IS ALL FALSE STATEMENTS BECAUSE THE APPELLANT LARRY BLAKNEY IS INCARCERATED WITH US AND WE'RE NOT ALLOWED TO HAVE DRUGS IN THE F.M.C. THEY ARE ADVERTISING THE STATEMENT TO CAUSE A PUBLIC RIDICULE, AS SCORN AND TO HUMILITE AND EMBARRASSMENT ON THE APPELLANT AS THEY ATTEMPT TO PROVOKE THE INMATES AT THE F.M.C. OF BUTNER TO PICK ON AND RIDICULE THE APPELLANT BY THE CLASS MEMBERS OUT OF MALICE FILL STATEMENT ABOUT HOW THEY DON'T LIKE THE WAY THE APPELLANT LOOK IN PURSUANT TO 28 U.S.C. § 1367 SEE NY TIMES CO V. SULLIVAN, 376 U.S. 254, 84 S. CT. 710, 11 L. ED. 2d 696 (1964) CITING GERTZ V. ROBERT WELCH INC, 418 U.S. 323, 94 S. CT. 2997, 41 L. ED. 2d 789 (1974) AS THE COURT AUTHORIZE US TO BE ELECTRONICALLY SURVEILLANCE THROUGH AN ILLEGAL INTERCEPTION. AS THE POLICE OFFICIALS INJURE THE REPUTATION OF THE APPELLANT THROUGH THE SLANDERS, LIBELS AND PER-SE DEFAMATIONS. WE'RE ALL WITNESSING THIS TAKE PLACE AT THE FEDERAL MEDICAL CENTER OF BUTNER N.C.

IT WOULD BE A WASTE OF JUDICIAL RESOURCES TO COMPEL BOTH PARTIES TO PREPARE FOR AND THE COURT TO ENTERTAIN A TRIAL ON THE MERITS OF AN ACTION THAT IS CLEARLY RESOLVABLE AS A MATTER OF LAW. FURTHERMORE, THIS COURT HAS ALREADY FULLY CONSIDERED AND RULED ON THE CONTROLLING QUESTION. THE ONLY THING NEEDED IN THIS CURRENT APPEAL IS FOR THE COURT TO

CLARIFY THE EFFECT OF ITS EARLIER OPINION IN THE CASE OF *MACKEY V. BOARD OF EDUC*, 386 F.3d 158, 163 (2d Cir. 2004) (CIRCUIT COURT MAY DIRECT DISTRICT COURT TO ENTER SUMMARY JUDGMENT IN FAVOR OF APPELLANT, EVEN IF APPELLANT NEVER MOVED FOR SUMMARY JUDGMENT, IF ALL ISSUES WERE BEFORE THE DISTRICT COURT AND NO MATERIAL

(ISSUE OF FACTS IS DISPUTED)

ALSO SEE, *GROSSO V. UNITED STATES*, 390 U.S. 62, 71-72, 88 S. Ct. 709, 19 L. Ed. 2d 906 (1968) (28 U.S.C. § 2106 AUTHORIZES RENDERING JUDGMENT RATHER THAN REMANDING ON ISSUE (WHEN RECORD WOULD PERMIT ONE CONCLUSION))

WHEREFORE LARRY BAKWEN AND CLASS MEMBERS PRAYS THAT THIS PETITION BE GRANTED AND THAT THIS APPEAL BE PERMITTED TO PROCEED

DATE: _____

Google

GATE



Movement

Records

To Watch Videos, Play Music & Visit Our Website Online

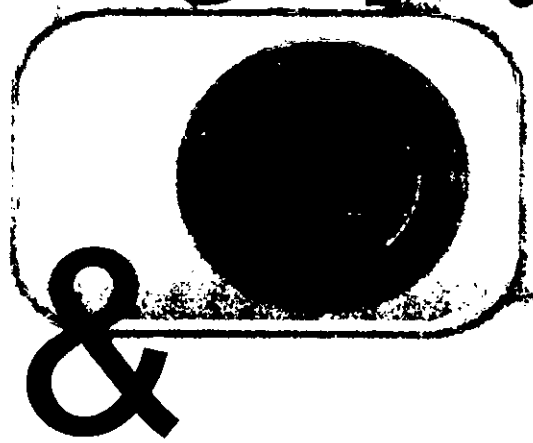
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