

21-8040

No. \_\_\_\_\_

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Dominique Braun — PETITIONER  
(Your Name)

vs.

Burgess McCowan, et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals Ninth Circuit  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Dominique Braun  
(Your Name)

3250 W. Lower Buckeye Rd  
(Address)

Phoenix, AZ, 85009  
(City, State, Zip Code)

708-845-8640  
(Phone Number)

FILED  
MAY 26 2022  
OFFICE OF THE CLERK  
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

1. Can Court-appointed attorney's be sued under Statute 1983 claim when they violate or deprive a person of thier Constitutional rights?
2. Are prosecutor immune from being sued under Statute 1983 claim when they violate or deprive a person of thier Constitutional rights?

## LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

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

Burgess McCowan, Kate Loudenslagel, and  
Manvel Rubalcaba

## RELATED CASES

CV2021-016001  
2:21-CV-01898-SPL-MHB  
CA-CV21-17071

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TABLE OF AUTHORITIES CITED

CASES.	PAGE NUMBER
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<del>Kromko v. Arizona Bd. of Regents (App. Div. 1 2006) 213 Ariz. 607, 146 P.3d 1016, review granted, opinion affirmed in part, vacated in part 216 Ariz. 190, 165 P.3d 168.</del> STATUTES AND RULES	Pg. 6

Statute 1983 claim

6<sup>th</sup> Amendment right to counsel

6<sup>th</sup> Amendment right to speed trial

14<sup>th</sup> Amendment right to due process

OTHER

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 B 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 is unpublished.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 A to the petition and is

reported at Brown vs. McCowan; 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 is unpublished.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

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

The date on which the United States Court of Appeals decided my case was 4-21-22.

No petition for rehearing was timely filed in my case.

[ ] A timely petition for rehearing was denied by the United States Court of Appeals 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. § 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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Statute 1983 claim

6th Amendment right to counsel violation

6th Amendment right to Speedy trial violation

14th Amendment right to Due process violation

STATEMENT OF THE CASE

The petitioner has been charged with misconduct involving weapons in Case No. CR2020-123250, since June 11, 2020 and has also been charged in two other criminal cases, CR2021-106431 and CR2021-001216.

Burgess McCowan assisted the prosecutor's Kate Loudenstigel and Manuel Rubalcaba with constantly continuing my Speedy trial date for no just reason, Mr. McCowan even told me that the Courts were continuing my trial date due to coronavirus, when in reality he was purposely filing motions to continue to prevent me from going to trial in all three of my criminal cases.

Both Kate Loudenstigel and Manuel Rubalcaba has continued to prosecute me well after my speedy trial date had passed and is still prosecuting me. Prosecutors also filed joint motions to continue the petitioners trial date with Burgess McCowan.

#### REASONS FOR GRANTING THE PETITION

A. Because the Plaintiff's Criminal attorney Burgess McCowan failed to provide the petitioner with adequate and effective assistance of counsel by protecting and safeguarding my Constitutional rights and not purposely alter my right to a speedy trial my 6th Amendment right to effective assistance of counsel has been violated and as a result of that violation the petitioner sued under § 1983 Claim and the Court of Appeals should not have dismissed the petitioner appeal as frivolous because court-appointed attorneys are appointed by the court to satisfy an indigent criminal defendant's sixth right to counsel. To State a Claim for relief in action brought under § 1983, Plaintiff must establish that they were deprived of a right secured by the Constitution or laws of the United States, and that the alleged deprivation was committed under color of state law. American Mfrs. Mut. Ins. Co. v. Sullivan, U.S. Pa 1999, 119 S. Ct. 977, 526 U.S. 40, 143 L.Ed.2d 130.

This amendment, as applied to the States through Amendment 14, secures to an indigent State accused the right to assistance of counsel in a criminal prosecution; and such assistance must be effective and substantial. Harper v. Wainwright, M. D. Fla. 1971, 334 F. Supp. 1338. A civil right complaint must show a deprivation of a right or immunity protected by the Federal Constitution. Coyte v. Hughes, W.D. Okla. 1977, 436 F. Supp. 591.

B. Kate Loundenstal and Manuel Rubalcaba do not become immune after violated a person's Constitutional rights, the sole purpose of the Constitution is to ensure a criminal defendant or any person receives a fair trial and fair Due Process proceeding and the Court of Appeals should not have dismiss my appeal against these prosecutors. This Section making every person who, under color of State Statute, deprives any citizen of Constitutional right liable to party injured is aimed at reprehensible action. Striker v. Pancher, (C.A.6 (Ohio) 1983), 317 F.2d 780. First Amendment, equal protections and due process Clause of Fourteenth Amendment and other provisions of Federal Constitution afford protection to employees of Federal government as well as to those who are served by the government.

ment, and § 1983 provides cause of action to all citizens injured by abridgement of those protections. *Collins v. City of Harker Heights, Tex.*, U.S. Tex. 1992, 112 S.Ct. 1061, 503 U.S. 115, 117 L.Ed.2d 261.

Absolute-immunity statute does not state that a public entity cannot be sued at all for any claim. *Kromko v. Arizona Bd. of Regents* (App. Div. 1 2006) 213 Ariz. 607, 146 P.3d 1016, review granted, opinion affirmed in part, vacated in part 216 Ariz. 190, 165 P.3d 168

#### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 05-18-2022