No. 21-988

IN THE

SUPREME COURT OF THE UNITED STATES

In re: DR. MARLA FAITH CRAWFORD,
Petitioner

v.

HENRICO COUNTY SCHOOL BOARD et al.,
Respondent(s)

On Petition For Writ Of Certiorari to
the United States Court of Appeals
for the Fourth Circuit

PETITION FOR WRIT OF CERTIORARI

Dr. Marla Faith Crawford, *pro se*
Elite Educational Consulting
6523 South Stevens Hollow Drive
Chesterfield, Virginia 23832
Tel.: (804) 397-4480
Email: eliteeducationalconsulting9@gmail.com

I. QUESTIONS PRESENTED

1) Did the Appeals Court of the Fourth Circuit error by refusal to pole the *rehearing en bac* and affirming the US District Court not to sever to Dr. Marla Faith Crawford under Rule 21 that creates a separate suit under 1983 and render independent actions as in *Gomez v. Dept. of the Air Force*, 869 F.2d 852, 859 (5th Cir. 1989 and in *Hill v.Eli Lilly & Co.* 2015 U.S. District (S.D. Indiana September 29, 2015)...keeping Plaintiffs clams join will have little to no positive impact on each...Court severed the Plaintiffs...final adjudication was imposed separately?
2) Did the Appeals Court of the Fourth Circuit error in upholding the Motion To Severe Moot?
3) Did the Appeals Court of the Fourth Circuit erred in affirming that the Plaintiff has no constitutional claim?
4) Did the Appeals Court of the Fourth Circuit erred in affirming that as agents of the school board, Dr. Kinlaw

and Mr. Eggleston had immunity as government officials in violation of VA Code 22.1-71..." obligations and responsibilities imposed upon school boards by law and...may be sued..."?

5) Did the Appeals Court of the Fourth Circuit erred by affirming the District Court declining to exercise supplemental jurisdiction?

6) Did the Appeals Court of the Fourth Circuit in affirming the dismissal the remaining claims within the Plaintiff's complaint claim based on the behavior of Lucas?

II. List of Parities

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 judgement is the subject of this petition is as follows:

Co-Defendants:

1. Henrico County School Board
2. Patrick Kinlaw
3. Kirk Eggleston, CTE Principal
4. Henrico County Police Department

5. Humberto Cardoul, Henrico Police Chief
6. Sergeant Crook, Henrico Police Department
7. Shannon Taylor, Henrico County Commonwealth Attorney
8. Tania Kregar, Asst. Commonwealth Attorney
9. L. Neil Steverson, District Court Judge

Interested Parties that this Writ may Affect in Time

US Court of Appeals for the Fourth Circuit

III.

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IV. PETITION FOR WRIT OF CERTIORARI

Dr. Marla Faith Crawford has served as an advocate for children with disabilities under the protection of IDEA, 504 Rehabilitation Act 1973, and American Disabilities Act of 1990 and children that are homeless under McKinney Vento Act. Dr. Crawford respectfully ask this Court for a writ of certiorari to review the judgment of the United States of Appeals for the Fourth Circuit Court because she was wrongfully arrested, maliciously prosecuted and subsequently acquitted as a result of advocation for an African American student to be re-enrolled in school that was under the protection of IDEA, 504 Rehabilitation Act 1973, and American Disabilities Act of 1990, and McKinney Vento.

V. OPINIONS BELOW

The decision by the United States Court of Appeals for the Fourth Circuit Court denying Dr. Crawford refusal to poll on April 13, 2021 under No. 19-2417 Dr. Marla

Crawford, Advocate/Analyst on April 13, 2021 upon filing a *rehearing en bac* from the direct denial of appeal ruling on February 5, 2021 affirming the US Eastern District Court of Virginia. Orders and Unpublished Opinion is attached in the Appendix ("APP).") at A-1, A-2, A-3. Appeals and petitions were timely filed.

VI. JURISDICTION

Dr. Crawford's for petition for *rehearing en bac* was denied on April 13, 2021. Dr. Crawford invokes this Court's jurisdiction under 28 U.S.C. § 1254(1) and Article III, Section II.

VII. CONSTITUTIONAL PROVISION

The Petitioner brought this complaint for violations of her individual and associated rights under:

First Amendment: The right to freedom of speech allows individuals to express themselves without government interference or regulation. The Supreme Court requires the government to provide substantial justification for the interference with the right of free speech where it attempts to regulate the content of the speech.

Fourth:

Fifth Amendment: protects all citizens from being held for committing a crime unless you have been indicted correctly by the police. The Fifth Amendment is also where the guarantee of due process comes from, meaning that the state and the country have to respect your legal rights.

Eighth Amendment: guarantees many freedoms of rights from unusual punishments and excessive punishment. Dr. Crawford was arrested and criminally charged with criminal trespassing as a result of someone else behavior. Her only act was communication with the Department of Education and the school.

Fourteenth Amendment: granted citizenship to all persons born or naturalized in the United States...guaranteed all citizens "**equal protection of the laws**." which figures prominently in a wide variety of landmark cases such as Brown v. Board of Education (racial discrimination).

VIII. STATEMENT OF CASE

Dr. Crawford was advocating for a child protected under IDEA, 504 Rehabilitation Act 1973, American Disabilities Act of 1990, and McKinney Vento Act for which Dr. Marla Crawford was arrested for criminal trespassing on January 31, 2018, Attorney General Office

for the Commonwealth of Virginia requested on April 25, 2021 that witness subpoenas be quashed (General District Court honored the request), maliciously convicted on April 26, 2018, and acquitted on appeal on September 26, 2018. For which the Circuit Court ruled that Dr. Crawford was talking with the Department of Education and was acquitted of the offense.

The plaintiff brought this complaint for violations of her individual and associated rights under the First, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution, in violation of 42 U.S.C. 1983, 1985, and 1986, 29 U.S.C. 504 (Rehabilitation Act of 1973), 42 U.S.C, 12132, 12182,12203 (Americans with Disabilities Act of 1990, ADA): Article I, sections 1,2,3, 8,10,12 of the Virginia Constitution; Va. Code §2.2-3900 Virginia Human Rights Act, and Va. Code §18.2-500(A) under §18.2-499 for Civil Conspiracy. Petitioner petitioned District Court on August 22, 2019 to sever from co-

plaintiffs. On September 19, 2018, in response to the Defendants' filing of a Motion to Dismiss, 12(b)(1) and 12(b)(6), the District Court granted the Defendants' Motion To Dismiss for Lack of Subject Matter Jurisdiction. The Plaintiffs appealed the District Court's ruling on March 27, 2019. On April 12, 2019, the Fourth Circuit vacated and remanded the District Court's dismissal of Plaintiffs' federal civil rights claims. Defendants filed their Renewed Motion to Dismiss For Failure to State Claim on May 20, 2019 (ECF No. 61). On November 6, 2019, the District Court denied the Plaintiff's August 22, 2019 motion to sever as MOOT. Plaintiff appealed District Court second dismissal. The Fourth Circuit Appeals Court affirmed District Court's dismissal on February 5, 2021.

IX. REASON FOR GRANTING WRIT

The panel decision of the United States Court of Appeals for the Fourth Circuit conflicts with Supreme Court precedent clear mandate that "genuine disputes are generally resolved by juries in our adversarial system. *Tolan v. Cotton*, 134 S. Ct. 1861, 1868 (2014) (*per curiam*). As in Tolan, "by weighing the evidence and reaching factual inferences contrary to" Dr. Crawford's evidence, the panel did not adhere to the fundamental principal that allegations be thoroughly and authentically viewed in the Plaintiff's favor not only in words, but with fidelity. Dr. Crawford was acquitted on appeal by the Henrico County Circuit Court for which the Defendants offered no testimony to contradict the facts that she was talking with personnel of the Virginia Department of Education. Dr. Marla Crawford specifically 42 U.S.C. § §1983, 1985, and 1986, and as alleged against only Defendants HCPS Board, Kinlaw, Eggleston, HCPD, Cardounel, and Crook,

and the state law claims alleged in the Fourth, Fifth, and Sixth Causes of Action

The panel's decision is in conflict with Rule 21 Misjoinder and Nonjoinder Parties: On motion or on its own, the court may at any time, on just terms, add or drop a party. *Edward Hirst V. Verizon Wireless Services, LLC, et al.* Case No. 5:18-cv-589-JMH in the Eastern District of Kentucky. The claims against other parties will remain. Here, because dismissal of a single party is appropriate under Federal Rule of Civil Procedure 21, the Court construes the joint stipulation of dismissal as a motion to dismiss under Rule 21. Rule 21 may be used for the dismissal of a single party. *Voneka Q. Nettles, et al., v Daphne Utilities*, in the US District Court for the Southern District of Alabama Southern Division (2014) the claims of all three plaintiffs were presented jointly in a single Amended Complaint against Daphne Utilities. After all, "[s]everance pursuant to Rule 21 essentially

creates a separate case, the disposition of which is final and appealable. ... Fisher, 245 F.R.D. at 541-42 (citation and internal quotation marks omitted); see also *Malibu Media, LLC v. John Does* 1-14, 287 F.R.D. 513, 522 (N.D. Ind. 2012) (in evaluating motion to sever, "a court should consider the convenience and fairness to parties," and its decision "should serve the ends of justice and facilitate the prompt and efficient disposition of the litigation") (citation omitted). In seeking to sever each plaintiff's claims into a separate lawsuit, Daphne Utilities argues that the three plaintiffs have been misjoinder under the Federal Rules of Civil Procedure. In *Grayson v. K-Mart Corp.*, 849 F. Supp. 785, 790 (N.D. Ga. 1994), the Court in the interests of efficiency and the fair administration of justice, defendant's Motion to Separate for Trial is granted. It is ordered that each plaintiff's claims will be tried separately during the May 2015 civil term. In *Wright v. North Carolina*, 787 F.3d 256, 263 (4th Cir. 2015), the

Court gave the opinion that "pleading standards require that the complaint be read liberally in favor of the plaintiff" (internal quotation marks omitted). "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" Comparing these statements to that of the Defendants' opposition:

1. (paraphrasing **" Lower court finding Lucas guilty of disruption on school property, and acquitting Crawford of any wrongdoing.")**
2. Notably, consistent with the **Defendants' reference to the second trial court's decision, the Plaintiffs' also stated that " failure to allow Crawford to be judged outside of [first trial court's] animus towards Lucas, represented a prejudicial joiner." (see statement # 177 of Plaintiffs' Complaints)**
3. More notably, prior to Crawford's motion to sever, **the District Court had initially agreed that all the facts, it now relies upon for dismissal, where the sole actions of Lucas**. See the district court's September 18, 2018 opinion that: Lucas posted to social medial to organize a protest and Lucas verbal confronted Mr. Eggleston about being racist. (paraphrasing).

4. In light of these facts, **the Petitioner's 1983 claims where clearly prejudiced by facts unrelated to her, Dr. Marla Crawford, that is, by Lucas' conduct. Crawford's actions did not permit the Defendants' to lawfully seek her removal from the school property, have her criminally charged for trespassing on school property, consequently, making the Defendants' actions to remove her unlawful and a deprivation of her First Amendment and Fourteenth Amendment protected rights under the Constitution to advocate on behalf of families, specifically in this matter, M.A., and engage in protected activity under IDEA, 504 Rehabilitation Act of 1973 and American Disabilities Act while exercising her bona fide right to conduct legal and legitimate business at CTE.**

The panel's decision as it pertains to fact and law in determining that the Plaintiff failed to allege sufficient facts of any constitutional claims is in conflict with the United States Constitution 14th Amendment right to Equal Protection of the Law and the Second Court's interpretation of the United States 6th Amendment U.S. Const. Amend. VI. that protects an individual the right not to be subject to criminal prosecution based on

fabricated evidence seems to stem from mistaken dicta in a Second Circuit decision interpreting the Due Process Clause. The promise of a "fair trial in a fair tribunal is a basic requirement of due process." *Nebraska Press Ass'n v. Stuart*, 427 U.S. 539, 551 (1976). Panel's decision conflicts with the courts in that "a conviction obtained through use of false evidence, known to be such by representatives of the State," violates the Due Process Clause of the Fourteenth Amendment. *Napue v. Illinois*, 360 U.S. 264, 269 (1959); see *Miller v. Pate*, 386 U.S. 1, 7 (1967) ("[T]he Fourteenth Amendment cannot tolerate a state criminal conviction obtained by the knowing use of false evidence."); *Pyle v. Kansas*, 317 U.S. 213, 216 (1942) (recognizing a due-process violation where "perjured testimony" is "knowingly used by the State authorities to obtain [a] conviction"); *Mooney v. Holohan*, 294 U.S. 103, 112 (1935) (due process "cannot be deemed to be satisfied

* * * if a State has contrived a conviction through * * * a deliberate deception of the court.

The panel's decision is in conflict with the December 10, 2020 ruling of the Second Court in *Tanzin v. Tanvir* that official can be sued and in the case of *Brownback v. King* in rejecting that official do not have qualified immunity. There were no findings that Dr. Crawford ever "threaten[ed] a 'sit in' on school property on a social media website". (see Complaint, statement Protection Clause of the Fourteenth Amendment." Dr. Crawford never displayed any "verbal abuse" or " threatening behavior towards" school officials, staff, or students at CTE. In light of the actual facts, where others who had conducted themselves lawfully at CTE were permitted to the remain on school property and subjected to arrest and or prosecution, Dr. Crawford should not have been treated any differently by the Defendants, and therefore, their actions to have her arrested, criminally prosecuted, and

removed from the school property was a violation of her 14th Amendment right to Equal Protection of the Law under the United States Constitution.

The panel's decision is in conflict with *Willv. Michigan Dep't of State Police*, 491 U.S. 58, 71 n.10 (1989) that when state officials are being sued for damages, the Supreme Court has made clear "a state official in his or her official capacity, when sued for injunctive relief, would be a person under § 1983 because 'official-capacity actions for prospective relief are not treated as actions against the State.'" (citations omitted). In *Wood v. Strickland*, 420 U.S. 308 (1975) (school board members); *Scheuer v. Rhodes*, supra (various executive officers, including the State's chief executive officer); *Pierson v. Ray*, 386 U.S. 547 (1967) (policemen), the Courts declined to extend qualified immunity to officials and ruled they may be held liable for unconstitutional misconduct. Therefore, the Defendants Kinlaw, Eggleston, and all others do not have

qualified immunity for violating the constitutional rights of Dr. Crawford by acting in "bad faith" to have her arrested and criminally prosecuted on false allegations. The Defendants acted outside of the United States Constitution and their authority against Dr. Crawford because of the behavior of another party.

The panel decision is In *Scheuer v. Rhodes*, in which the Court held that plaintiffs were not barred by the Eleventh Amendment or other immunity doctrines from suing the governor and other officials of a state alleging that they deprived plaintiffs of federal rights under color of state law and seeking damages, when it was clear that plaintiffs were seeking to impose individual and personal liability on the officials. When state officials are being sued for damages, the Supreme Court has made clear "a state official in his or her official capacity, when sued for injunctive relief, would be a person under § 1983 because 'official-capacity actions for prospective relief are not

treated as actions against the State.'" *Willv. Michigan Dep't of State Police*, 491 U.S. 58, 71 n.10 (1989) (citations omitted). The Supreme Court has identified two elements of a § 1983 claim. The plaintiff must allege both (1) a deprivation of a federal right, and (2) that the person who deprived the plaintiff of that right acted under color of state law. The United States Constitution among other things, places substantial limitations upon state action, and the cause of action provided in 42 U.S.C. § 1983 is fundamentally one for "[m]isuse of power, possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law." *United States v. Classic*, 313 U.S. 299, 326 (1941). HCPS Board does not fall under Moneli.

The panel's decision conflicts with *Middlesex County Ethics Comm.*, 457 U.S. at 434,102 S.Ct 2515 (concluding state's interest in the professional conduct of attorneys is of special importance), or matters that traditionally look

to state law for resolution, see, e.g., *Moore v. Sims*, 442 U.S. 415,435,99 S.Ct. 2371, 60 L.Ed.2d 994 (1979) (concluding that family relations are a "traditional area of state concern" warranting Younger abstention). The only "state interest" that appears to be present in any of the Defendants' Motions to Dismiss is "Henrico County's interest" in preserving its right to terminate statutory entitlements without due process and arrest and/or charge Dr. Crawford and African American woman and advocate, that participated in the federally protected activity of challenging violations of federal statutes and federal regulations, with trespass in order to remove her from HCPS property when she exercised her First Amendment protection to address a grievance of unenrolling and African-American male student with a disability that was protected under McKinney Vento, IDEA, 504 Rehabilitation Act, and ADA, which would dramatically contradict the federal interest as established

in Article V and the Due Process Clause of the Fourteenth Amendment, and serve to shield their discriminatory practices. For which Dr. Crawford did not disrupt the operation of the school day or was not a threat to school personnel, parents or students. Dr. Crawford constitutional rights were violated due to issues unrelated to her and the behavior of another party. When state court criminal prosecutions are brought in bad faith or for the purpose of denying civil liberties, federal equitable principles justify intervention." See also *Perez v. Ledesma*, 401 U.S. 82, 85 (1971), This inquiry largely hinges, the lower federal courts have since emphasized, upon a showing of the subjective motivation of the state authority in bringing the proceeding. See *Phelps v. Hamilton*, 59 F.3d 1058,1064-65 (10th Cir. 1995) (factors for determining whether prosecution was brought in bad faith or to harass include: (1) whether It was frivolous or undertaken with no objective hope of success, (2) whether

it was motivated by the defendant's suspect class, or in retaliation for the exercise of constitutional rights; and (3) whether it was conducted in a manner to harass or to constitute an abuse of prosecutorial discretion, typically through unjustified and oppressive use of multiple prosecutions). There was no plausible or reasonable purpose to have Dr. Crawford arrested and criminally prosecuted for trespassing other than to remove her liberties afforded her by the United States Constitution, ADA, IDEA, and other federally protected rights. The County Defendant's go on to cite, the Supreme Court has allowed federal intervention "only in cases of proven...prosecutions undertaken by state officials in bad faith without hope of obtaining a valid conviction and perhaps in other extraordinary circumstances where irreparable injury can be shown " *Perez v. Ledesma*, 401 U.S. 82,85 (1971). In this case, Mr. Eggleston used a false statement to acquire an arrest warrant against Dr.

Crawford and testified to the contrary. Sgt. Crook recanted his initial testimony on appeal by indicated he "misspoke" during the initial trial. In absence of the Discovery, that support the factual allegations of discrimination, retaliation and intimidation, and conspiracy to maliciously prosecute and secure a conviction for criminal trespass against Dr. Crawford in order to circumvent her from being able to advocate for not just M.A, but other students, and families of students with special needs in Henrico County. It is the absolute substance of the complaint. The individual irreparable damage and harm is both April 26, 2018 conviction on Dr. Crawford's record, that the initial conviction of Dr. Crawford factually allege was achieved through fraud and a deliberate misrepresentation of the facts (conspiracy) to the Court. *Parents League for Effective Autism Services v. Jones-Kelley*, 565 F. Supp.2d 905, 914 (S.D. Ohio 2008) (abstention declined despite Impact on state budget,

where Medicaid involves federal concerns); *Moore v. Medows*, No. 1:07- CV□631-TWT, 2007 U.S. Dist. LEXIS 47087, 2007 WL1876017, at *3 (N.D. Ga. June 28,2007) (abstention declined since plaintiffs' claims "implicate not a complex state regulatory scheme, but an important federal interest embodied in the Medicaid Act") (citation omitted)). Further, the 4th Circuit made this issue clear in McCartney ex re!. *McCartney v. Cansler*, 608 F. Supp. 2d 694 - Dist. Court, North Carolina (2009) when it ruled: "At issue in both this action and the ongoing state administrative proceedings is HHS's administration of North Carolina's Medicaid program. While the State may have an interest in the regulation and administration of this program, the program Is a product of the federal Medicaid program and subject primarily to federal law and procedures. See 42 U.S.C. § 1396a (imposing standards for participation in federal Medicaid program); N.C. Gen. Stat. § I08A-56 (accepting and adopting

provisions of Medicaid Act); *Antrican*, 290 F. 3d. at 183 n.2 (stating that states participating in federal Medicaid program "must implement and operate Medicaid programs that comply with detailed federally 704'"704 mandated standards"). The court finds that the federal interests in this case outweigh the state's interests and that *Younger* abstention Is, therefore, not appropriate."

The panel decision also conflicts with Congress' intent in enacting ADA, IDEA, and the Rehabilitation Act of 1973, specifically the IDEA, which, in *Winkelman v. Panna City School District*, 550, U,S. 516 (2007) states that "holding that Individuals with Disabilities Act, 20 U.S.C. §1400 et. seq. grants parents independent and enforceable rights they may litigate *pro se* in federal court; however, they may only litigate *pro se* claims arising under this act." The Court in this ruling went on to state, "We therefore conclude that IDEA does not differentiate, through isolated references to various

procedures and remedies, between the rights accorded to children and the rights accorded to parents and their representatives, acting on their behalf. As a consequence, a parent may be a party aggrieved for purposes of § 1415(i)(2) with regard to "any matter" implicating these rights. See § 1415(b)(6)(A). The status of the parents and the representatives that they authorize, as parties, is **not** limited to matters that relate procedure and cost recovery. To find otherwise would be inconsistent with the collaborative framework and expansive system of review established by the Act. CF. *Cedar Rapids Community School District v. Garret F.*, 526, U.S. 66, 73 (1999). (looking to IDEA'S "overall statutory scheme to interpret its provisions).

Furthermore, in its weighing of the plaintiff's substantial and convincing evidence, the panel's decision is in conflict with regulations for the Americans with Disabilities Act in Title 28, Part 26. The regulation about

retaliation is in 28 CFR 36.206, which provides protection and standing for individuals that act on behalf of society's most vulnerable citizens, those with disabilities, that may not be able to exercise and/or defend their rights solely on their own or at all. The Plaintiff assert that Congress, in its vast wisdom and intent to ensure that individuals with disabilities were appropriately supported, afforded, and expanded the protections granted to individuals with disabilities to those that advocate on their behalf, as noted below; Section 36.206 Retaliation or coercion:

1. No private or public entity shall discriminate against any individual because...because that individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the Act or this part.
2. No private or public entity shall coerce, intimidate, threaten, or interfere with any individual in the exercise...or on account of his or her having aided

or encouraged any other individual in the exercise...any right granted or protected by the Act on this part.

3. Illustrations of conduct prohibited by this section include, but are not limited to: Coercing an individual to deny or limit the benefits, services, or advantages...entitled under the Act or this part; Threatening, intimidating, or interfering with an individual with a disability who is seeking to obtain or use the goods, services, facilities, privileges, advantages, or accommodations of a public accommodations; Intimidating or threatening any person because that person is assisting or encouraging an individual or group entitled to claim rights granted or protected by the Act or this part to exercise those rights; or Retaliating against any person because that person has participated in

any investigation or action to enforce the Act of this part. 28 CFR Sec. 36.206.

To maintain order and uniformity amongst the Circuit Court of Appeals. This High Court set forth the Federal Rules of Appellate Procedure, and, the Appellate Courts must comply with the procedures, particularly the procedures that directly impact due process, as in this case. Ensure Petitioner is provided equal opportunity to due process before judiciary, same as all others before it.

IX. IN CONCLUSION, if this Court agrees with the Petitioner, she respectfully requests that upon remand, require three different judges to be assigned to this case.

Respectfully submitted,

/s/ Dr. Marla Faith Crawford

Dr. Marla Faith Crawford, *pro se*