

Supreme Court of the United States

Lasher v. United States

USCA2 No. 20-1671

Application to leave to file the writ of certiorari in excess of the word limits

Judge Buchwald denied my request for a new trial based on newly discovered evidence under Rule 33 as “untimely”; however, this is in conflict with the Supreme Court’s recent ruling of Arsean Lamone HICKS v. Director, DEPARTMENT OF CORRECTIONS. Record No. 131945. Decided: February 26, 2015 in that “**the statute of limitations for habeas claims must be tolled while such evidence is suppressed.**”

The Appellate Court further denied the Plaintiff’s newly-discovered-evidence motion for a new trial, challenging the denial of a newly-discovered-evidence motion for a new trial after the May 15, 2015 verdict. **However**, the suppressed exculpatory video recordings were **NOT turned over to the Plaintiff** until July 24, 2018, which was **more than 3 years after the Plaintiff’s verdict**. Therefore, it is IMPOSSIBLE for “such motions be made within three years after verdict”.

The Appellate Court should have granted me a new trial, instead of sanctioning me, based on the fact that **I am a victim of IDENTITY THEFT**, and based on Supreme Court’s recent ruling of Arsean Lamone HICKS v. Director, DEPARTMENT OF CORRECTIONS. Record No. 131945. Decided: February 26, 2015, and based on the fact the newly discovered evidence were not turned over to me until July 24, 2018, more than 3 years **after** my verdict; thus I was not capable nor able to file within the 3 years statute of limitation.

It must be stressed that the prosecutors referenced these video recordings as if they were in evidence at trial, while knowing the video evidence was exculpatory. Their suppression of it, and their tampering with the evidence, also show that they knowingly presented false evidence to the jury.

Judge Buchwald covered up the Prosecution’s misconduct and denied the Plaintiff’s request for a new trial based on newly discovered evidence as “untimely”. She chose to ignore the Supreme Court’s recent ruling of Arsean Lamone HICKS v. Director, DEPARTMENT OF CORRECTIONS. Record No. 131945. Decided: February 26, 2015 in that “**the statute of limitations for habeas claims must be tolled while such evidence is suppressed.**” **The Appellate Court should grant the Plaintiff a new trial based on** the Supreme Court’s recent ruling of Arsean Lamone HICKS v. Director, DEPARTMENT OF CORRECTIONS. Record No. 131945. Decided: February 26, 2015, and based on the fact the newly discovered evidence were not turned over to the

Plaintiff until July 24, 2018, more than 3 years **after** the Plaintiff's verdict; thus the Plaintiff is not capable nor able to file within the 3 years statute of limitation. Therefore, the Plaintiff is seeking to toll the statute.

Further, the Plaintiff, an ASIAN VIETNAMESE female, was, and still is, a victim of IDENTITY THEFT, committed by pharmacy owner Peter Riccio, and his office manager, Laura Hishmeh. The Plaintiff also asserts that ANTI-ASIAN RACISM, a HATE CRIME, was committed against her, by the Defendants and the PROSECUTION.

Plaintiff's "trial"

Plaintiff's "trial" was not about identity theft and therefore were NEVER mentioned at trial. In fact, the newly discovered evidence, thousands of checks forged by Defendant Hishmeh (See Exhibit X – a small sample of Laura's forging signatures) were not provided to the Plaintiff until after her release from prison in July 2018, proving the Defendants' misconduct against her. Hishmeh forged the Plaintiff's signature on pharmacy contracts clearly gave the false impression that the Plaintiff was an owner of one or more of the Riccio pharmacies and that she was in control of the bank accounts referencing her name clearly.

Identity theft is so bad because identity thieves, in this case, Peter Riccio and Laura Hishmeh, ALSO stole the Plaintiff's Social Security number (SSN), opens new accounts in the Plaintiff's name to obtain credits (Pa112). To date, Peter Riccio and Laura Hishmeh NEVER denied they forged the Plaintiff's signatures, because they did.

Further,

A. The exculpatory video recordings evidence, which were previously suppressed by the prosecution, AUSA DANIEL RICHENTHAL, show:

(1) The Plaintiff was not present at the alleged crime scene on the dates (6/1/2012, 6/12/2012, 7/16/2012, 7/17/2012, 8/13/2012, 8/16/2012, 8/27/2012, and 10/2/2012) the alleged crimes were supposedly committed, and

(2) The Plaintiff was working in a different pharmacy and not engaged in any of the alleged acts the prosecution describes, such as remotely monitoring or supervising, nor directing employees in other locations to commit the alleged crime.

- (3) The Plaintiff was working at a different pharmacy on October 2, 2012 when oxycodone was dispensed to "unkempt" individuals,
- (4) The Plaintiff never dispensed the drug "butilbital" as indicted, charged, and convicted of, and proof of same was withheld from the jury.

Most importantly, the Plaintiff's lack of presence is also shown on the work schedule and EZY passes. The governing pharmacy law in the Plaintiff's case requires her to be present at the pharmacy at the time the drug was "shipped" on the dates referenced. The Government has a copy of the work schedule from the Hellertown Pharmacy (HP) and Palmer Pharmacy & Much More (PP) showing Plaintiff was not at work during the dates and times of the shipments referenced.

B. At trial, the issue of being a signatory was never mentioned because the Judge Buchwald and the Government knew that the Plaintiff never signed any check nor had any control over any bank accounts. The 2 signatories who signed checks and controlled bank accounts were Peter Riccio (owner) and his office manager (Laura Hishmeh). Mr. Riccio told the Plaintiff that he took her off the accounts as a signatory, and made Laura Hishmeh the signatory; this was why the Plaintiff believed she was not a signatory. However, after the Indictment, she was shocked to learn that Mr. Riccio was not forthcoming; he kept her as a signatory and never added Hishmeh as one. A civil action has been filed against both Riccio and Hishmeh for, including but not limited to, **forging the Plaintiff's signature on bank and credit card documents as well as pharmacy contracts, that gave the false impression that she was an owner of one or more of the Riccio pharmacies, and that she was in control of the bank accounts referencing her name.**

Due to the nature of the Plaintiff's case, in which a wrongful conviction that relied on testimony that is easily proven to be false, and built on withheld and suppressed evidence, and on misrepresenting both the law and material facts to the jury, the Plaintiff is requesting leave to file the writ of certiorari in excess of the word limits, to an additional 6 pages.

The United States Supreme Court stressed that a defendant's due process rights are violated both when a prosecutor knowingly presents false testimony and when he knowingly fails to correct such perjury. The Court also held that the same rule applies even when the false testimony concerns only the witness's credibility, since "a lie is a lie, no matter what its subject." Napue v. Illinois, 360 U.S. 264 (1959). Here, the lies that brought

about this wrongful conviction even extend to the District Court Judge Naomi Reice Buchwald who deceived the jury to secure a wrongful conviction. *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388 (1971)

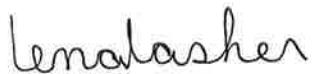
Further, the Plaintiff can establish a violation of substantive due process rights by an executive official, Judge Naomi Reice Buchwald, by showing (1) that the official violated one or more fundamental constitutional rights and (2) that the conduct of the executive official was shocking to the contemporary conscience." *Truong v. Hassan*, 829 F.3d 627, 631 (8th Cir. 2016) (internal quotations and citations omitted). "To be conscience shocking, the government action must be 'truly irrational, that is, something more than ... arbitrary, capricious, or in violation of state law." *Draper v. City of Festus*, 782 F.3d 948, 953 (8th Cir. 2015) (quoting *Weiler v. Purkett* 137 F.3d 1047, 105 (8th Cir. 1998) (en banc)).

Here, the Defendant's actions rise to the "conscience shocking" level as a result of Judge Naomi Reice Buchwald's conduct of a kangaroo court, and only a higher court can stop this judicial misconduct.

For the aforementioned reasons, the Plaintiff is requesting leave to file the writ of certiorari in excess of the word limits, to an additional 6 pages.

Respectfully submitted,

July 23, 2021



Lena Lasher, 16 Patton Street, High Bridge, NJ 08829