No. _____

In The

Supreme Court of the United States

IRVING F. ROUNDS JR.,

Petitioner,

vs.

CHARLIE BAKER, GOVERNOR ET AL.,

Respondents.

On Petition For A Writ Of Certiorari To The Massachusetts Supreme Judicial Court

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Has Irving Rounds, Jr. (hereinafter "Petitioner") been deprived of his due process rights under the 5th and 14th Amendments to the Constitution of the United States where the lower courts:

A. Failed to provide him with the police department public records to stop irreparable harm to the Petitioner?

B. Failed to properly weigh the evidence presented in the Massachusetts Superior, Appeals and Supreme courts and grant hearings?

C. In the instance of the Massachusetts Superior court (Campo, J.), failed to recuse himself from the matter before him?

LIST OF PARTIES

Defendants-Appellees

Defendant#1
Former Massachusetts Governor Charlie Baker
Defendant#2 Former Massachusetts Attorney General and Massachusetts Governor Maura Tracey Healey
Defendant#3 Secretary of the Commonwealth of Massachusetts William Francis Galvin
Defendant#4 Massachusetts Public Records Division

Plaintiff-Appellant

IRVING F. ROUNDS, JR.

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

Case No. FAR-29170

Defendants

Former Massachusetts Governor Charlie Baker
Former Massachusetts Attorney General and Massachusetts Governor Maura Tracey Healey
Secretary of the Commonwealth of Massachusetts William Francis Galvin
Massachusetts Public Records Division

Plaintiff

Irving F. Rounds, Jr. 48 N Sturbridge Road APT B
Charlton, MA 01507

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

Civil Action
NO: FAR-29170

RELATED CASES

Irving F. Rounds, Jr. v. Environmental Protection Agency, No. 1:15-CV-13541-MLW, U.S. District Court Boston, Massachusetts, Judgement entered August 22, 2016

Irving F. Rounds, Jr. v. Environmental Protection Agency Et al, No. 4:17-CV-40072-TSH, U.S. District Court Worcester Massachusetts, Judgement entered February 12, 2018

Irving F. Rounds, Jr. v. Charles Koch Et al, No. 4:18-CV-40066-DHH, U.S. District Court Worcester Massachusetts, Judgement entered June 22, 2018

Irving F. Rounds, Jr. v. Charles Koch Et al, No. 19-1094, U.S. Court of Appeals for The First Circuit, Judgement entered February 27, 2020

Irving F. Rounds, Jr. v. United States Department of Justice Et al, No. 19-11388-FDS, U.S. District Court Boston, Massachusetts, Judgement entered January 30, 2020

Irving F. Rounds, Jr. v. Charles Koch Et al, No. 20-248, Supreme Court of The United States, Judgements entered November 2nd, 2020, January 11, 2021

Irving F. Rounds, Jr. v. United States Department of Justice Et al, No. 21-40117-TSH, U.S. District Court Worcester, Massachusetts, Judgement entered September 8, 2022

RELATED CASES – Continued

Irving F. Rounds, Jr. v. Commonwealth of Massachusetts Governor Charlie Baker Et al, No. 1984CV03692, Commonwealth of Massachusetts Suffolk County Superior Court, Judgement entered December 9, 2019

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PETITION FOR WRIT OF CERTIORARI

The Petitioner, an individual who resides in Charlton, Massachusetts, respectfully petitions this Court for a Writ of Certiorari to review the judgment of the Massachusetts Supreme Judicial Court.

OPINIONS BELOW

Rounds v. Baker et al.

Rounds v. Environmental Protection Agency et al.
Rounds v. Environmental Protection Agency et al.

Rounds v. Koch et al.

Rounds v. U. S. Department of Justice et al.

Rounds v. U. S. Department of Justice et al.

The decision by the Massachusetts Superior, Appeals and Supreme Judicial Courts in Boston Massachusetts denied the Petitioner's Requests for the police records. These rulings and orders are attached at Appendix ("App.") at 1-4.

JURISDICTION

The Petitioner invokes this Court's jurisdiction under 28 U.S.C. § 1257(a), having timely filed this petition for a Writ of Certiorari within ninety (90) days of judgment of the Massachusetts SJC Court in Boston.

CONSTITUTIONAL PROVISIONS INVOLVED

United States Constitution, Amendment V

"No person shall be . . . deprived of life, liberty, or property, without due process of law; . . . "

United States Constitution, Amendment XIV

"nor deny to any person . . . jurisdiction the equal protection of the laws: . . . "

STATEMENT OF THE CASE

1. THE PETITIONER'S LEGAL EFFORTS TO REPORT (BLOW THE WHISTLE) ON HIS FORMER EMPLOYER FOR VIOLATIONS OF THE CLEAN AIR ACT TO THE U.S. EPA FOR ILLEGALLY VENTING REFRIGERANTS

In January of 1998 the Petitioner was employed with Airtron Heating and Air Conditioning, Inc., (herein "Airtron") formerly of Oldsmar, Florida in the State of Florida. At this time he reported his employer to Special Agent Daniel Green of the Criminal Investigation Division (CID) of the Environmental Protection Agency (EPA) at the agency's Tampa, Florida field office relative to numerous violations of the Clean Air Act (i.e. illegal venting of refrigerants, exploiting the elderly through illegal sales of HVAC equipment that they didn't need, mold problems with installations of HVAC systems, etc.). The Petitioner was concerned with his safety and that of his ex-wife having received death threats; he requested witness protection and

Agent Green guaranteed it. Over the ensuing months, Agent Green would renege on this promise. Group MAC, the parent company of the Petitioner's employer, Airtron, was partially owned by Charles and David Koch (a/k/a the Koch Brothers). During a period of subsequent years and to the present, the Petitioner has been systematically threatened, harassed and intimidated by agents and employees of Airtron, the Koch Brothers and the U.S. Department of Justice (DOJ) to the extent that his health, his employment career and his privacy (including but not limited to all communications) have been severely compromised.

2. MASSACHUSETTS SUPERIOR, APPEALS AND SUPREME COURTS

The Petitioner filed a complaint with attached Request for Injunction on November 25, 2019. A subsequent hearing took place on December 3, 2019. At the hearing the Petitioner presented factual evidence and claimed a necessity to be provided with those public records in order to secure a restraining order against this one individual that had been threatening the Petitioner and physically harming him.

On December 10, 2019, Honorable Tochka, J., dismissed the case on the grounds that the Defendants had not withheld documents from the Petitioner, but instead stated no such documents existed. The Court stated that the Defendants had no remedy in this

instance and moreover the ability to appeal the board's findings had expired.

The Petitioner subsequently filed a motion for reconsideration on order of dismissal. On March 4, 2020, a hearing was held on the Petitioner's motion for reconsideration on order of dismissal. At that hearing the Petitioner pointed out that the Town of Clinton Police detective Schmidt did admit that he conducted an investigation by contacting the Burlington Police Department. He had also said some very untrue and disparaging things about the Petitioner to one of his attorneys assisting him in this case. Under Massachusetts law (M.G.L., c. 66) a Police Department is required to generate a police report where there has been filed a citizen's valid complaint. The Petitioner further argued that the Superior Court has available (again at M.G.L., c. 66) all remedies at law and in equity in this instance. The sitting judge claimed that there exists a separation of powers between the judiciary branch and the executive branch of the government: he stated that the judicial branch had no authority to order the executive branch to investigate the police action (or inaction) in this instance.

The Petitioner even posed the hypothetical question of his life being at stake and potentially that of his neighbors. The court further insisted that it didn't have the authority. The Petitioner had expressed legitimate concerns for not only his safety but that of the public as well; this individual is allegedly one of the five managers involved with the Petitioner's ex-wife staged car crash on March 5th, 2015, which the

Petitioner met with then Sergeant Bruce O'Rourke twice in 2015 at his Middlesex District Attorneys in Woburn Massachusetts. The meeting was not only about the Petitioner's ex-wife's staged car crash, but about over inflated energy costs being also incurred by the Commonwealth of Massachusetts from the Koch brothers. Sergeant O'Rourke works for the Massachusetts State Police Detectives unit in the homicide investigation unit. The Petitioner had also provided the Court with a proposed Order in which the Petitioner requested that the Court contact the US Attorney General's Office on the Petitioner's behalf to try to stop the DOJ from threatening and harassing the Petitioner. The Petitioner had offered the same order subsequent to both the Massachusetts Appeals and SJC Courts.

The Petitioner made multiple requests to the court for a hearing on the Petitioner's motion for reconsideration. On March 25, 2021, subsequent to the Petitioner's filing of these multiple motions, a hearing was granted with the new Judge Campo in place of the retired Judge Tochka. At the hearing Judge Campo stated that the case was dismissed because the Petitioner had filed a motion for reconsideration that the Judge had never ruled on. The Petitioner's motion #8 filed on March 9, 2020, cited several instances including a Fall River matter where a judge ordered the Police Department to stop charging individuals from panhandling as well as another case in Chicago where a Superior Court judge ordered the Chicago Police Department to turn over police, public records. Judge

Campo went on to say at this point that another hearing would need to be scheduled.

The Petitioner further argued that he was being physically harmed by these individuals (the resulting stress was taking a serious toll upon his well-being, a finding which was made by two medical doctors and a licensed social worker). The Petitioner then asked the judge how he should go about stopping these individuals from threatening him. The court then indicated to the Petitioner that in the abstract that is his redress to assess: if the Petitioner thinks he is facing some harm, then he should take the appropriate legal steps.

At the March 25, 2021, Zoom hearing between the parties mentioned above. After all the evidence the Petitioner had furnished to Judge Campo and the Court, Judge Campo spoke to the Petitioner in a demeaning and condescending manner.

At the end of the March 25, 2021, hearing, the Petitioner asked Judge Campo on how he might stop these individuals from physically harming him and threatening the Petitioner and the public. After providing Judge Campo with all the voluminous evidence and weekly mass shootings, he could have and should have ordered the immediate release of the public records and issued TROs against these individuals. But instead, Judge Campo replied by saying "yeah" in a demeaning and condescending manner.

The Petitioner had provided two pictures of the individual threatening the Petitioner and the public with what appears to be a pocket pistol firearm; he was

going to discharge it at the Petitioner. Other evidence of potential harm by the other individuals was also presented.

The Petitioner had also provided Judge Campo with other evidence of the individual (Richard Ciruolo) who almost struck the Plaintiff and his dogs with a motor vehicle (which almost struck the apartment in the process with my neighbors inside the building). This man is presumed to be one of five managers involved in my ex-wife's staged car crash on March 5, 2015, in which the Petitioner met with the State Police. It is presumed that the Massachusetts State Police know that the DOJ perpetuated this event.

The Petitioner had stated in email correspondence that the reason these two individuals had potential motives for threatening the Petitioner, is that they could be potentially charged with their involvement in my ex-wife's staged car crash on March 5, 2015.

Because of all the inconsistencies with the Massachusetts Superior Court Clerk Melissa Doris Juarez, Judge Tochka's coincidental retirement along with Judge Campo had been appointed by Defendant Baker and how Judge Campo spoke to the Petitioner at the March 25, 2021, hearing, to avoid erroneous deprivations of the right to due process, this court should reconsider the decisions of the Massachusetts, Superior Appeals and Supreme Judicial Courts in Boston, Massachusetts denying the Petitioner due process by not allowing a hearing, failing to properly weigh the evidence and failing to recuse. The Petitioner had also

requested a hearing at a different venue at a different Massachusetts County Superior Court. Both of those requests were denied. On June 14, 2021, a hearing was conducted on the Petitioner's motion for reconsideration. At that hearing the Petitioner had prepared the Petitioner's joint appendix for memorandum with his motion for reconsideration. The Petitioner pointed out that he had addressed the motion for reconsideration on three matters: 1) that it was filed in the correct county 2) the motion for reconsideration from the public records division was filed in a timely manner and 3) the Petitioner had filed the lawsuit specifically against the three offices of the state which had authority over the Public Records Division. More specifically, the Petitioner asserted that the records existed but were not being released for whatever reason.

The Petitioner clearly stated that he was being physically harmed by these individuals and that the District Court in Clinton, Massachusetts required these records in order to secure restraining orders against these individuals. Both individuals were involved with my ex-wife's staged car crash on March 5, 2015; the Petitioner also possessed a photograph of a man running down the street after he had pointed a firearm at him. Judge Campo then stated that if the Petitioner felt he was being harassed in some way, shape or form a Chapter 258 E filing is available to him or a Chapter 209A Complaint is available to any family member. The Plaintiff then clarified with the court that he was not being harassed; in reality, he was being threatened and that there exists a distinct difference.

On June 16, 2021, Judge Campo denied the Petitioner's Motion for Reconsideration.

The Petitioner then appealed the decision to the Massachusetts Appeals Court. The Petitioner had made numerous motions to the Court to request a hearing after presenting evidence to the Court that the Petitioner was being continually threatened by these named individuals in the injunctions (including at work over the phone where the Petitioner is a schoolteacher) and the Court never granted the Petitioner a hearing.

The Petitioner then appealed the decision to the Massachusetts Supreme Judicial Court. The Petitioner again had made numerous motions to the Court to request a hearing after presenting evidence to the Court that the Petitioner was being continually threatened by these named individuals in the injunctions (including at work over the phone where the Petitioner is a schoolteacher along with a video being threatened at the Petitioner's gym) and the Court never granted the Petitioner a hearing. The Court didn't even allow a hearing and denied the application for further appellate review on April 13, 2023, just 17 days after the mass shooting in Nashville Tennessee.

The Petitioner has noted the destruction of public records by the various defendants, the political influence defendants Baker and Healey along with defendant Healey's wife (Gabrielle Wolohojian Associate Justice of the Massachusetts Appeals Court) also other

factors to not allow the Petitioner judicial unbiased in all of these courts.

The Petitioner as noted to the lower Courts that he has proven that there is no doubt that these public records exist and they are not being released for whatever reason. The Petitioner has also proven through the voluminous exhibits presented to the lower Courts that he is being threatened by these individuals involved with his ex-wife's staged car crash and by Charles Koch's agents that he met with twice then Sergeant Bruce O'Rourke from the Massachusetts State Police Detectives Unit in the year of 2015.

The Petitioner has made over a half a dozen offers to settle this matter out of court. Those offers were to settle for no monetary damages and the Petitioner would be willing to sign a gag order.

Defendant Governor Maura Tracy Healey is the Massachusetts top officer for the state. She has been using that position and previous position of Massachusetts Attorney General since the beginning of January 2022 to try to "illegally" fire the Petitioner as an employee for the state of Massachusetts as a school teacher, as noted in the lower court's filings of motions of exhibits to stop her.

The Petitioner is in the process of going public with this matter and writing a book "MANIPULATED SYSTEM'S, A WHISTLEBLOWERS STORY, BY IRV ROUNDS". Again, the reason why Mr. Ciruolo along with other multiple DOJ Agents keep threating, intimidating, stalking, and harassing the Petitioner is that

they could be potentially criminally charged for their involvement in the Petitioner ex-wife's staged car crash along with potentially causing a constitutional crisis with the DOJ and the Courts involved.

3. UNITED STATES DISTRICT COURT PETITIONS: MOTION FOR RECONSIDERATION OF THE DECISION OF THE U.S. DISTRICT COURT

The Petitioner has previously filed Complaints in the United States District Courts in Boston and Worcester, Massachusetts seeking redress against several agencies and representatives of the United States Government as well as private individuals for these threats, intimidation and harassment (even though the cases mentioned in the United States Courts are "not" on appeal to this Writ of Certiorari from the Massachusetts Supreme Judicial Court (SJC), they are all related to this case). Included in these actions are the Petitioner's various Motions seeking Injunctive Relief for which the Petitioner specifically requested hearings before the Court. At no time did the District Courts (Hillman, J. and Saylor, J.) allow the Petitioner an opportunity to be heard and present his substantive and voluminous evidence before the Courts while seeking injunctive relief. Furthermore, these judges summarily dismissed the accompanying Complaints without seriously entertaining the Petitioner's Motions or properly weighing the evidence as outlined in Petitioner's Complaints and as substantiated in his materials.

The U.S. District Court (Saylor, J.) concluded that the case was barred by the doctrine of sovereign immunity, that subject-matter jurisdiction was lacking and therefore the Complaint was dismissed. That the Court should ignore the Complaint of the Petitioner on narrow immunity and jurisdictional grounds is not sufficient argument which would warrant the outright dismissal of this matter at this juncture.

Admittedly, the Petitioner, as a Pro se Complainant, does not enjoy the legal training and knowledge of the seasoned, legal practitioner prosecuting his claims in the Federal Courts. The Court has made allowances for Pro se litigants in numerous cases throughout our history. The District Court (Saylor, J.) pointed this out in its opinion citing the "less stringent standard" of the Pro se litigant:

"When, as here, a motion to dismiss is filed against a pro se litigant, any document filed by the pro se party 'is to be liberally construed, and a pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers.'" *Erickson v. Pardus*, 551 U.S. 89, 94 (2007). Despite this allowance, the District Court goes on to add that the Pro se plaintiff still has the responsibility to state his/her Complaint with factual integrity: " . . . even a pro se plaintiff is required to 'set forth factual allegations, either direct or inferential, respecting each material element necessary to sustain recovery under some actionable legal theory.'" *Wright v. Town of Southbridge*, 2009 WL 415506 at *2 (D. Mass. Jan. 15, 2009). The Court, when analyzing the Pro se

Complainant's factual allegations, must give the Complainant the benefit of the doubt as to their truthfulness at least in the first instance: " . . . the district court must construe the complaint liberally, treating all well-pleaded facts as true and analyzing all reasonable inferences in favor of the plaintiff." *Aversa v. United States*, 99 F.3d 1200, 1209-10 (1st Cir. 1996).

In this case, the Pro se Petitioner, lacking the level of sophistication of the legal draftsman, buttressed his "bare bones" allegations with Appendix materials which he believed would sustain his case. Consequently, his factual allegations contained in the body of his Complaint are "brought to life" by his voluminous documentation presented to the courts. This is how this Petitioner " . . . set forth his factual allegations and respect(ed) each material element necessary to sustain his recovery under (an) actionable legal theory." (*Wright v. Town of Southbridge* noted above).

Lacking legal training, the Petitioner has not been able to appreciate the legal niceties of the doctrine of sovereign immunity and an asserted waiver of same, appropriate subject-matter jurisdiction, the necessity of administrative exhaustion of remedies and claims advanced under the Federal Tort Claims Act. His arguments contained in his Complaint are limited to the difference between right and wrong which are advanced in a rudimentary way and guided by a fervent belief in the Constitution of the United States of America and the requisite due process of law thereunder.

As a result, the opinion of the District Court (Saylor, J.) contains language and legal references with which this Petitioner was unfamiliar when filing his Complaint and advancing his Appeals. Here, factual allegations have been substantiated to the best of the Petitioner's ability with the aid of his Appendix.

The Petitioner's Motion to the District Court to have Judge Saylor recuse himself from the Petitioner's case was warranted and advanced in good faith. Judge Saylor's prior service as an Assistant United States Attorney for the District of Massachusetts from 1987 through 1990 as well as his work as special counsel and Chief of Staff to Robert Mueller, (a party in a matter related to this litigation) Assistant Attorney General of the Criminal Division of the United States Department of Justice (a party in this case) in Washington, D.C. from 1990 through 1993 should have influenced the judge's decision on the Motion.

4. THE U.S. COURT OF APPEALS DECISION; INTERLOCUTORY APPEAL TO THE U.S. COURT OF APPEALS FOR THE FIRST CIRCUIT

The Judgment of the U.S. Court of Appeals indicated that the Petitioner had " . . . fail(ed) to provide any developed argumentation or legal authority in support of his position" and alternatively that the lower Court had not abused its discretion.

The Petitioner had filed with the Appeals Court (as well as the District Court) extensive, factual

material contained in his Appendix which substantiated his allegations against the defendants. At a minimum, his documentation, when weighed in its best light, supported the need for injunctive relief or alternatively, a hearing where oral argument provided the Petitioner with an opportunity to be heard. The ruling of the Appeals Court, particularly in its finding that the lower Court had not abused its discretion, did lend misplaced credence to the decision of the District Court(s) which had ignored Petitioner's justified plea for injunctive relief and a hearing on the merits (even though the cases mentioned in the United States Courts are "not" on appeal to this Writ of Certiorari from the Massachusetts Supreme Judicial Court (SJC), they are all related to this case).

This Court's Precedents Confirm That the Due Process Clause Requires Impartial Adjudicators.

This Court has long applied the Due Process Clause to guarantee the impartial adjudicators the Framers of the Fourteenth Amendment found lacking in some Civil War-era courts. In so doing, this Court has recognized that the Due Process Clause's proscription extends more broadly than the common law prohibition on judges serving in cases in which they have a direct pecuniary interest, but rather encompasses those cases in which a judge's interest "might lead him not to hold the balance nice, clear, and true." *Tumey*, 273 U.S. at 532. As this Court explained most recently in *Caperton*, "[a]s new problems have emerged that were not discussed at common law . . . the Court has

identified additional instances which, as an objective matter, require recusal. These are circumstances 'in which experience teaches that the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable.'" 556 U.S. at 877 (quoting *Withrow*, 421 U.S. at 47).

In *Tumey v. Ohio*, the Court considered a situation in which the judge had a financial interest, albeit a small one, in the outcome of the case because he would receive a supplement to his salary if he convicted the defendant. There, the Court held that the judge should have been disqualified "both because of his direct pecuniary interest in the outcome, *and* because of his official motive to convict and to graduate the fine to help the financial needs of the village." 273 U.S. at 535 (emphasis added). As the Court explained, "the requirement of due process of law in judicial procedure is not satisfied by the argument that men of the highest honor and the greatest self-sacrifice could carry it on without danger of injustice." *Id.* at 532. Rather, "[e]very procedure which would offer a possible temptation to the average man as a judge to forget the burden of proof required to convict the defendant, or which might lead him not to hold the balance nice, clear, and true between the state and the accused denies the latter due process of law." *Id.*

In a subsequent case, the Court underscored that "[t]he fact that the mayor [in *Tumey*] shared directly in the fees and costs did not define the limits of the principle." *Ward v. Village of Monroeville, Ohio*, 409 U.S. 57, 60 (1972). Again, the Court emphasized that "the test"

is whether the judge might be tempted "'not to hold the balance nice, clear, and true.'" *Id.* (quoting *Tumey*, 273 U.S. at 532). Thus, in that case, the Court held that it violated Due Process for a mayor to convict a defendant of traffic offenses where the fines from those offenses would help support the village of which he was mayor. *Id.* at 59; *see id.* at 60 ("that 'possible temptation' may also exist when the mayor's executive responsibilities for village finances may make him partisan to maintain the high level of contribution from the mayor's court"). Any other result, the Court concluded, would have denied the defendant the "neutral and detached judge" to which he was entitled. *Id.* at 62.

Because of how severely the DOJ has broken the law against the Petitioner and has influenced the Defendants to break the law, the Petitioner's Due Process for fair treatment and an unbiased tribunal has been denied. *"nor be deprived of life, liberty, or property, without due process of law;"*

REASONS FOR GRANTING THE WRIT

The Fifth and Fourteenth Amendments to the Constitution of the United States guarantee that individuals in the United States shall not be unfairly deprived of their basic constitutional rights to life, liberty and property by all levels of government.

Over the course of the evolution of American constitutional law, the Court has interpreted and defined

the substantive and procedural contours and requirements of these due process provisions when confronted with appropriate cases and controversies. In the early years of the twentieth century the Court in *Hebert v. Louisiana*, 272 U.S. 312 (1926) declared that the Due Process Clause requires " . . . that state action . . . shall be consistent with the fundamental principles of liberty and justice . . . " Eight years later, the Court in *Snyder v. Massachusetts*, 291 U.S. 97, 116, 117 (1934) concluded that "Due Process of law requires that the proceedings shall be fair, but fairness is a relative term, not an absolute concept . . . What is fair in one set of circumstances may be an act of tyranny in another."

Justice Frankfurter's opinions during the 1950's demonstrated a valiant attempt to outline several factors for courts to balance when dealing with due process questions (e.g., *Joint Anti-Fascist Refugee Commission v. McGrath*, 341 U.S. 123 (1951)) as well as the evolving nature of the concept itself (see *Griffin v. Illinois*, 351 U.S. 12 (1956)): "Due Process is the least frozen concept of our law" which can " . . . absorb the progressive social standards of modern society." Justice Harlan described due process as "fundamental fairness" in *Duncan v. Louisiana*, 391 U.S. 145 (1968) at a time when the country faced significant unrest and social upheaval.

It was the Court in *Londoner v. City of Denver*, 210 U.S. 373 (1908) which had declared that sometimes the right to a fair hearing implies the right to oral argument. In *Societe Internationale v. Rogers*, 357 U.S. 197

(1958), the Court noted the impact of the Due Process Clause particularly within the sphere of civil litigation: "The Court traditionally has held that the Due Process Clause protects civil litigants who seek recourse in the courts, either as defendants hoping to protect their property or as plaintiffs attempting to redress grievances." Furthermore, the Court found in the same case that the Fifth Amendment's Due Process Clause imposed " . . . constitutional limitations upon the power of courts, even in aid of their own valid processes, to dismiss an action without affording a party the opportunity for a hearing on the merits of his case."

The Seventh Circuit Court of Appeals found in *Webster v. Redmond*, 599 F.2d 733, 801-802 (7th Cir. 1979) that there must be a showing of a deprivation of a liberty or property right to constitute a due process violation under the Constitution. The Supreme Court in *Logan v. Zimmerman Brush Co.*, 455 U.S. 422 (1982) declared that a legal cause of action was a kind of property protected by the Due Process Clause.

In the case before the Court, the Petitioner has incurred the deprivation of a property right (i.e. a fair hearing of his legal cause of action). As a consequence of that deprivation his right to due process under the Constitution has been violated. He was denied an opportunity to be heard on his Motion for equitable relief as well as the underlying cause of action. When the Court failed to properly weigh his evidence, he suffered from yet another due process omission. Finally, when the Court refused to recuse (himself), the Petitioner

was again denied a fair hearing via due process before an impartial tribunal.

We know from the case law that "Bias or prejudice of an appellate judge can (also) deprive a litigant of due process" as was the finding in *Aetna Life Ins. Co. v. Lavoie*, 475 U.S. 813 (1986).

Furthermore, " . . . under our precedents, the Due Process Clause may sometimes demand recusal even when a judge has no actual bias." (Aetna) In order to satisfy the demands of due process under the Fifth Amendment, there must be a finding that there exists a distinct probability that bias will infiltrate the proceedings. The Court has declared that "Recusal is required when, objectively speaking, the probability of actual bias on the part of the judge or decision maker is too high to be constitutionally tolerable." *Withrow v. Larkin*, 421 U.S. 35, 47 (1975). Given Judge Campo's background, it should be clear that recusal was warranted at the Massachusetts Superior Court. The probability that such a failure to recuse could result in a lack of due process fairness to the Petitioner before the Court would appear to have called for an allowance of his Motion.

CONCLUSION

The Petitioner has been effectively stigmatized by his pursuit of justice in this matter despite the fact that he has a right to avoid such an intrusion by the actions of the defendants (*Vitek v. Jones*, 445 U.S. 480 (1980)). Where governmental activity has caused the

stigma to occur, the intrusion is particularly egregious and the need for due process is paramount. As the Court mentioned in *Wisconsin v. Constantineau*, 400 U.S. 433, 437 (1971), "Where a person's good name, reputation, honor or integrity is at stake because of what the government is doing to him, notice and an opportunity to be heard are essential." In the instant case, even the appearance of impropriety should have been enough for the Court to avoid the designation of a (civil) "one-man grand jury" (see *In re Murchinson*, 349 U.S. 133 (1955)).

The Court should reconsider the decisions of the Superior, Appeals and Supreme Courts in Boston Massachusetts denying the Petitioner Due Process under the 5th and 14th Amendments by not allowing him a hearing, failing to properly weigh the evidence, and failing to recuse.

For the foregoing reasons, the Court should reverse the Massachusetts Supreme Judicial Courts decision for further proceedings to release the public records that the Petitioner has been seeking.

Respectfully submitted,

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