No. 22-1193

# In The Supreme Court of the United States

JEFFRY THUL,

*Petitioner,*

v.

DEBORAH HAALAND, Secretary of the Interior,

| | |
|---|---|
| PAUL DANIEL SMITH | ROSE BLANKENSHIP |
| NHIEN TONY NGUYEN | AMY RISLEY, Owner, |
| KEN BRODIE | RESOLUTION SERVICES, LLC, |
| DAVE DAVIES | RESOLUTION SERVICES, LLC, |
| JOHN ESWORTHY | Unknown Employees 1-4, |
| ROBERT VOGEL | LYNDA GLOVER |
| SARA CRAIGHEAD | SHERRI FIELDS |
| STAN AUSTIN | LANCE HATTEN |
| ED BUSKIRK | BUFFY BRYANT |
| BRAD BENNETT | GREG ROBINSON |
| REGGIE TILLER | RONALD HAYES |

In their individual capacities,

*Respondents.*

**On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Sixth Circuit**

## PETITION FOR WRIT FOR CERTIORARI

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## QUESTIONS PRESENTED

Whether service of process is relevant in a psychological disability case when the equal protection component of the Due Process Clause confers on all federal employees injured in the line-of-duty, a federal constitutional right to be free from any discrimination, that would prevent cases involving Post-Traumatic Stress Disorder from being in every way expedited? 42 U.S. Code § 2000e-5(f)(5), " . . . to cause the case to be in every way expedited."

Whether or not the National Park Service municipality or its properly constituted legislative body's putatively unconstitutional actions should be a consideration in determining "good cause" for a psychologically disabled employee's inability to effectuate service of process; otherwise, tolling the death knell for their entire cause of action?

## RULE 29.6 STATEMENT

The petitioner has no parent corporation or publicly held company that owns 10% or more of its stock

## RELATED CASES

- *Thul v. Defendants et al.*, No. 22-5440, U.S. Court of Appeals for the Sixth Circuit. Judgment entered March 01, 2023.
- *Thul v. Secretary of the Interior*, No. 1:20-cv-0354, U.S. District Court Eastern District of Tennessee Judgment entered March 24, 2022.
- *Thul v. Defendants et al*, No. 22-5440, U.S. Court of Appeals for the Sixth Circuit. Petition for Rehearing **DENIED** on March 23, 2023.

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## OPINIONS BELOW

### Rehabilitation Act Claim

Whether Jeffry Thul (Complainant) has been subjected to disparate treatment on the bases of disability (mental) and reprisal (Agency Case Nos. DOI-NPS-18-0033, DOI-NPS-18-0571) when on September 17, 2019, the Assistant Regional Director, Administration (RMO2) issued to Complainant a non-disciplinary removal for inability to perform the duties of his position. Pet. App. 23.

### Department of Interior Final Agency Decision

"After careful review and analysis of your Equal Employment Opportunity (EEO) complaint and the Report of investigation (ROI), the U.S. Department of the Interior (DOI or Agency), Office of Diversity, Inclusion and Civil Rights (ODICR) takes final action on your complaint by issuing this Final Agency Decision (FAD). "ODICR finds that you have been subjected to disparate treatment and denial of reasonable accommodation based only on disability (mental), in violation of the Rehabilitation Act." Pet. App. 22.

### U.S. District Court Eastern District of Tennessee at Chattanooga

"The United States Supreme Court has 'never suggested that procedural rules in ordinary civil litigation should be interpreted so as to excuse mistakes by those who proceed without counsel.'" Instead, the Supreme

Court counsels that "strict adherence to the procedural requirements specifed by the legislature is the best guarantee of evenhanded administration of the law." Pet. App. 15.

"[W]ithout proper service of process, consent, waiver, or forfeiture, a court may not exercise personal jurisdiction over a named defendant." Pet. App. 18.

**Sixth Circuit Appellate Court**

"Nor do we find that Thul's mental disorders excused his failure to effect timely service. As the defendants argue, Thul's mental disorders did not preclude him from filing voluminous pleadings in the district court that required extensive legal research. So we are unpersuaded that these same mental disorders were an external impediment to Thul's ability to effect proper and timely service of process." Pet. App. 7.

## JURISDICTIONAL STATEMENT

The Sixth Circuit entered judgment on March 1, 2023. Plaintiff's petition for rehearing was denied on March 23, 2023. This Court has jurisdiction under 28 U.S.C. § 1254(1).

## SPECIAL NOTIFICATIONS

If the United States or any federal department, office, agency, officer, or employee is a party to be served, service shall be made on:

A. Notification to Solicitor General of the United States,

Elizabeth Prelogar
Solicitor General of the United States
Room 5616, Department of Justice
950 Pennsylvania Ave., N. W.,
Washington, DC 20530-0001.
Attch: 3 paper copies, 1 electronic copy

When an agency of the United States that is a party is authorized by law to appear before this Court on its own behalf, or when an officer or employee of the United States is a party, the agency, officer, or employee shall be served in addition to the Solicitor General.

B. Notification to the Department of Interior,

Lisa Doehl
U.S. Department of Interior
Office of the Solicitor
2021 4th Ave. North, Suite 112
Billings, MT 59101
Attch: 3 paper copies, 1 electronic copy

C. Notification to the Twenty-three Individual Defendants

The individual defendants listed on the front cover were served though their appointed agent at the DOI,

ODICR's Employment and Labor Law Unit at DOICivilRights@ios.doi.gov. Waiver presented for review at Pet. App. 118, 119.

Attch: 1 electronic copy

## RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fifth Amendment provides that "[n]o person shall be . . . deprived of life, liberty, or property, without due process of law. . . ." In numerous decisions, this Court "has held that the Due Process Clause of the Fifth Amendment forbids the Federal Government to deny equal protection of the laws." *Davis v. Passman*, 442 U.S. 228, 235-36 (1979).

*Withrow v. Larkin*, 421 U.S. 35, 47 (1975) This Court firmly holds that, "Concededly, a 'fair trial in a fair tribunal is a basic requirement of due process.'" *In re Murchison*, 349 U.S. 133, 136 (1955). This applies to administrative agencies which adjudicate as well as to courts. *Gibson v. Berryhill*, 411 U.S. 564, 579 (1973). Not only is a biased decisionmaker constitutionally unacceptable but 'our system of law has always endeavored to prevent even the probability of unfairness.' *In re Murchison, supra*, at 136; cf. *Tumey v. Ohio*, 273 U.S. 510, 532 (1927).

5 C.F.R. § 353.301(d) protects federal employees from losing their jobs stating:

> Agencies must make every effort to restore in the local commuting area, according to the circumstances in each case, an individual who has partially recovered from a compensable injury and who is able to return to limited duty. At a minimum, this would mean treating these employees substantially the same as other handicapped individuals under the Rehabilitation Act of 1973, 29 U.S.C. § 794 (Supp. III 1979).

## STATEMENT OF THE CASE

Petitioner, Mr. Jeffry Thul is a qualified individual with a psychological handicap in the United States, who for over five years now, continues to remain partially recovered from a compensable line-of-duty injury that will not begin to properly heal without this Court's intervention.

Petitioner's case arises from the U.S. Department of the Interior's (DOI or Agency) March 11, 2021, finding that the National Park Service (NPS) violated the Rehabilitation Act when they terminated Mr. Thul based solely on his psychological disability, Post-Traumatic Stress Disorder (PTSD). Mr. Thul, however, still remains aggrieved because of the Agency's failure to take final action on his Rehabilitation Act claims. Where, for the past 5 years, he has been able, willing, and seeking to return to limited duty so he can begin healing from the psychological injuries he suffered in the line-of-duty. The DOI however refuses to remove

the handicapping barrier preventing Mr. Thul's recovery, and consequently his return back to duty.

## A. Problem

Currently the Sixth Circuit courthouse doors are locked pursuant to an absolute U.S. Court of Appeals for the Sixth Circuit interpretation of Rule 4(m); thereby, tolling the death knell and disposing of Mr. Thul's meritorious Rehabilitation Act discriminatory termination claim. Pet. App. 22, Final Agency Decision. Which is now *time-barred*.

The Court's 4(m) dismissal also disposes of Mr. Thul's:

a) Case No. : 1:20-CV-0354 *Biven's* action against the individual defendants *et al.*, Doc 15, ¶ V(A)(i), PageID#s 237-239;

b) Case No. : 1:20-CV-0354 *Biven's* action against the Contractor, Resolution Services, LLC, Doc 15, ¶ V(A)(ii), PageID#s 239-243;

c) Case No. : 1:20-CV-0354 Fifth Amendment violation of his right to due process, *Id.* Doc 15, Page ID# 241; and,

d) Case No. : 1:20-CV-0354 Conspiracy to Overthrow the Federal Government's Constitutional Form of Government claim, Doc 15, ¶ V(A)(iii), PageID#s 237-239.

(Doc 6, Appeal Br., ¶¶ 58, 59).

## B. Crux of the Problem

The disposition of these claims prevents Mr. Thul who is classified under 5 C.F.R. § 353.301(d) from "being able to return to the site of the incident without significant anxiety or dysfunction so he can begin healing from the psychological injuries he suffered in the line-of-duty." Pet. App. 94. Injuries that are demonstrated to be exacerbated by the individual defendants' putatively unconstitutional actions taken in the course of their official conduct. Actions that are proximate to Mr. Thul's inability to effectuate service of process.

### i. Conflicting Opinions

The questions presented in this case involve genuine and current conflicts between the Supreme Court and the U.S. Court of Appeals for the Sixth Circuit decisions related to the principles of: 1) Irreparable Harm – Federal Municipal Liability under the Fifth Amendment; 2) Equal Protection under the Law; 3) Clean-Hands Doctrine; and 4) Efficient Case Management and Preclusive Effect under the Rehabilitation Act.

Equaling burdensome to the U.S. Court of Appeals for the Sixth Circuit are internal opposing opinions, including diametrically opposing opinions between the Eastern District at Chattanooga and the U.S. Court of Appeals for the Tenth Circuit when applying a solicitous attitude toward psychologically disabled *pro se* plaintiffs who are first, forced into this compulsory federal litigation; then second, they find themselves faced

with the complex requirements of service of process including multiple service under Rule 4(i).

This case is significant and substantially important because at the current time, psychologically disabled federal employees seeking "good cause" for failing to timely effectuate or attempt to effectuate service of process under Fed. R. Civ. P. 4 inexplicably face vastly differing standards of proof depending on which district they file in, and which circuit panel reviews the case.

### C. Gravamen of this Case

Like *Davis v. Passman*, 442 U.S. 228 (1979), Mr. Thul's termination was also the result of putatively unconstitutional actions taken in the course of the NPS municipal's official conduct. The difference between the two cases however is that the NPS municipal's unconstitutional actions resulted in the petitioner's inability to recover from the severe psychological trauma he suffered in the line-of-duty. Injuries that are causally connected to Mr. Thul's inability effect service of process. Where for 5-years now, the defendants *et al.* have benefited from this handicapping barrier; allowing them to hold Mr. Thul in a state of isolation and uncertainty for no other reason to protect their own careers at the expense of Mr. Thul's health and welfare. This Court holds that:

> "'No man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All officers

> of the government, from the highest to the lowest, are creatures of the law, and are bound to obey it.' *United States v. Lee*, 106 U.S. [196,] 220 [(1882)]."

Therefore, "a suit against a [municipality or it's properly constituted legislative body] for putatively unconstitutional actions taken in the course of their official conduct [will not] raise special concerns counseling hesitation." *Davis* at 246.

Ironically, the Defendants *et al.*'s only defense in this case rests solely on the Eastern District's strictest interpretation of 4(m) resulting in a dismissal that was based exclusively on the petitioner's inability to provide "documentation" that would establish the Eastern District of Tennessee at Chattanooga court's *personal* jurisdiction in this case. Pet. App. 18.

Sending the message that in the Sixth Circuit, psychologically disabled federal employees seeking "good cause" will not receive any form of a reasonable accommodation *pro interesse suo* to the technical aspects of Rule 4.

## Introduction

As far back as 1931, the 6th Cir. has been holding that the power of the court is amply sufficient to prevent its process from becoming an instrument of wrongdoing. *Dickey v. Turner*, 49 F.2d 998, 1000 (6th Cir. 1931), citing *Compton v. Jesup*, 68 F. 263, 279 (C. C. A. 6).

Judge Taft saying:

> "Again, every court has inherent equitable power to prevent its own process from working injustice to any one, and may entertain a petition by the aggrieved person, either in the form of a simple motion, or by intervention *pro interesse suo* in the cause in which the process issued, or by ancillary or dependent bill in equity, and may afford such relief as right and justice require."

The Supreme Court holding that jurisdictional rules may not be employed in such a way as to make litigation "so gravely difficult and inconvenient" that a party unfairly is at a "severe disadvantage" in comparison to his opponent. *Burger King Corp. v. Rudzewicz*, 471 U.S. 462 (1985), citing *The Bremen v. Zapata Off-Shore Co.*, 407 U.S. 1, 18 (1972) (*re* forum-selection provisions); *McGee v. International Life Insurance Co.*, 355 U.S. 220 (1957). Where, "[t]he basis of injunctive relief in the federal courts has always been irreparable harm and inadequacy of legal remedies," *Beacon Theatres, Inc. v. Westover*, 359 U.S. 500, 506-507 (1959).

### A. Relevant Herein

A remedy which restrains the NPS municipality or it's properly constituted legislative body from violating the federal rights conveyed to their employees by statute is unavailable. On June 14, 2016, the House Committee on Oversight and Government Reform found these same NPS' senior and influential policymakers were engaging in misconduct,

mismanagement and unethical behavior. The Committee's Chairman Jason Chaffetz demanded these federal rights violations stop, immediately. Where circa. 2017 through 2021, the defendants *et al.*'s deliberate indifference to the federal rights conveyed to Mr. Thul by 5 C.F.R. § 353.301(d), is proven to be causally connected to his inability to recover from his line-of-duty caused injuries; thereby affecting his ability to effectuate service of process to the exacting standards demanded by the Eastern District.

Based on a *prima facie* claim of irreparable harm as a reason for "good cause," forms the bases for the injunctive relief needed at this time. Especially when the only defense protecting the Defendants *et al.*, is the Eastern District court's subjective interpretation of which federal rights are to be afforded to psychologically disabled employees.

### B. Theoretical Test

Simply remove the handicapping barrier causing Mr. Thul's inability to effectuate service of process, *pro interesse suo*, and the Defendants are now forced to defend: 1) a policy of inaction that was causing injuries in 2016; and, 2) the same policy of inaction that again is demonstrated to be causing Mr. Thul's injuries, today.

## REASONS FOR GRANTING THE WRIT

### I. The Sixth Circuit's decision conflicts with the Supreme Court's decisions related to the Existence of Irreparable Harm involving federal municipal liability under the Fifth Amendment

In *Monell v. New York City Dept. of Social Services*, 436 U.S. 658 (1978), this Court concluded that municipal liability under 42 U.S.C. § 1983 is limited to deprivations of federally protected rights caused by action taken "pursuant to official municipal policy of some nature. . . ." *Id.*, at 691.

Mr. Thul is requesting a *writ of certiorari* to determine federal municipal liability under the Fifth Amendment for deprivations of federally protected rights caused by an action taken "pursuant to official federal municipal policy of some nature . . . " [T]he 'decision to grant certiorari represents a commitment of scarce judicial resources with a view to deciding the merits . . . of the questions presented in the petition.'" *St. Louis v. Praprotnik*, 485 U.S. 112, 120 (1988) (quoting *Oklahoma City v. Tuttle*, 471 U.S. 808, 816 (1985)).

#### A. Merits

On Mon, Sep 16, 2019 at 6:13 PM, 22 hours, and 7 minutes before the decision was made to terminate Mr. Thul, the NPS' properly constituted legislative body made up of Defendants Tony Nguyen, Ken Brodie, and Letitia Coleman received Mr. Thul's ***URGENT and IMMEDIATE*** Request for an Intervention. Pet. App.

104. In his reasonable accommodation request Mr. Thul notified this legislative body that Buskirk's planned termination would result in constitutional and statutory violations. Pet. App. 100.

On September 17, 2019 at 4:20 PM, exactly 40 minutes before the Plaintiff was to be terminated, Defendants Ed Buskirk, Ken Brodie, Letitia Coleman, and Cecelia Townes stood by and witnessed Defendant N. Tony Nguyen, the NPS' Associate Director, Workforce and Inclusion, effectually serve Mr. Thul with the following NPS municipality **DECLARATION**:

> "Thank you for your email to the Director. I am responding on his behalf. It is our practice not to comment on matters that are the subject of litigation or part of the Equal Employment Opportunity (EEO) complaint process. I would refer you to the Deciding Official, Mr. Buskirk, and/or the Solicitor, Ms. Cecelia Townes, to discuss the matter further."

Pet. App. 104, 105.

On September 17, 2019 at 5:00 PM, the NPS municipality sanctioned Buskirk's termination of Mr. Thul's federal service based solely on his disability. Pet. App. 22-23, DOI, ODICR Final Agency Decision (March 11, 2021).

Mr. Thul alleges that based on the above taken action, the NPS' properly constituted legislative body or authorized decisionmaker has negligently deprived a plaintiff of a federally protected right and the municipality acted culpably.

### B. Culpability

[The 5th Amendment] itself "contains no state-of-mind requirement independent of that necessary to state a violation" of the underlying federal right. *Daniels v. Williams*, 474 U.S. 327, 330 (1986). In any Fifth Amendment suit, however, the plaintiff must establish the state of mind required to prove the underlying violation. *Comm'rs of Bryan Cty. v. Brown*, 520 U.S. 397, 405 (1997). Accordingly, "proof that a municipality's legislative body or authorized decisionmaker has intentionally deprived a plaintiff of a federally protected right necessarily establishes that the municipality acted culpably." *Id. Comm'rs of Bryan Cty.*

On October 13, 2017, Interior Secretary Ryan Zinke vowed:

> "there would be 'no quarter' for employees who sexually harass or discriminate against colleagues. He said he would dismiss anyone found guilty of harassment and supervisors who sweep such charges under the rug. Stating, I have no problem removing manager after manager until none are left. Intimidation, harassment, and discrimination are viruses within an operation, and we're going to eradicate them"

Allowing for the trier of fact to logically conclude the Defendants *et al.'s* deliberate indifference to Mr. Thul's statutorily defined rights could be for no other reason that to protect their own careers at the expense of the petitioner's health and welfare. Demonstrating there exists a *prima facie* existence of irreparable

harm, and an opportunity to improve the inadequacy of the current legal remedies used to determine good cause involving psychologically disabled employees.

**Therefore**, because the Eastern District court failed to determine existence of irreparable harm, and make a determination if there was an opportunity to improve the inadequacy of the current legal remedies used to determine good cause involving psychologically disabled employees, the Supreme Court must set aside the Eastern District court's decision to grant the Appeared Defendants motion to dismiss under 4(m), and REMAND this case back to the Eastern District because it was obtained without procedure required by law, rule, or regulation having been followed; or, unsupported by substantial evidence." 5 U.S.C. § 7703(c) (1994); see also *Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402, 414 (1971).

## II. The Sixth Circuit's decision conflicts with this Court's decisions related to principles of Equal Protection Under the Law

The Fifth Amendment provides that "[n]o person shall be . . . deprived of life, liberty, or property, without due process of law. . . ." In numerous decisions, this Court "has held that the Due Process Clause of the Fifth Amendment forbids the Federal Government to deny equal protection of the laws. *Davis v. Passman*, 442 U.S. 228, 235 (1979) (citations removed). "To withstand scrutiny under the equal protection component

of the Fifth Amendment's Due Process Clause, 'classifications by gender must serve important governmental objectives and must be substantially related to achievement of those objectives.' *Craig v. Boren*, 429 U.S. 190, 197 (1976)." *Califano v. Webster*, 430 U.S. 313, 316-317 (1977). The equal protection component of the Due Process Clause thus confers on petitioner a federal constitutional right to be free from gender discrimination which cannot meet these requirements. *Id. Davis* at 236.

### A. Petitioner's Substantive Rights

It is undisputed that Mr. Thul is partially recovered, and receiving compensatory payments. Pet. App. 88. Under OPM's regulations, employees have different *substantive* rights based on whether they have fully recovered, partially recovered, or are physically disqualified from their former or equivalent positions. 5 C.F.R. § 353.301. Partially recovered employees are those who "though not ready to resume the full range" of duties, have "recovered sufficiently to return to part-time or light duty or to another position with less demanding physical requirements." 5 C.F.R. § 353.102.

A partially recovered individual's substantive rights with regard to restoration are set forth at 5 C.F.R. § 353.301(d) which provides as follows:

> Agencies must make every effort to restore in the local commuting area, according to the circumstances in each case, an individual who has partially recovered from a compensable

> injury and who is able to return to limited duty. At a minimum, this would mean treating these employees substantially the same as other handicapped individuals under the Rehabilitation Act of 1973, 29 U.S.C. § 794 (Supp. III 1979).

**Establishing** the Petitioner's constitutional claims withstand scrutiny under the equal protection component of the Fifth Amendment's Due Process Clause. Where his classification as a federal employee who has partially recovered from a compensable injury and who is able to return to limited duty, serves an important governmental objective to return these employees back to work; depending on the circumstances in each individual case. 5 C.F.R. § 353.301(d).

Because Mr. Thul's federal rights are conveyed by statute, the Eastern District's decision to grant the Appeared Defendants motion to dismiss under 4(m), violates 5 C.F.R. § 353.301(d). **Therefore,** the Supreme Court must set aside the Eastern District court's decision to grant the Appeared Defendants motion to dismiss under 4(m), and REMAND this case back to the Eastern District because it was obtained without procedure required by law, rule, or regulation having been followed; or, unsupported by substantial evidence." 5 U.S.C. § 7703(c) (1994); see also *Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402, 414 (1971).

## III. The Sixth Circuit's decision conflicts with this Court's decisions related to principles of Doctrine of Clean Hands

According to the DSM-5, the essential feature of Post-Traumatic Stress Disorder (PTSD) is the "development of the of characteristic symptoms following exposure to one or more traumatic events." See American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders: Fifth Edition 274 (2013). The "clinical presentation of PTSD" varies from individual to individual. Some sufferers experience loss of memory of the traumatic event, diminished participation in previously enjoyed activities, or the tendency to engage in aggressive physical or verbal behavior with little or no provocation, among other things. Establishing that by definition, PTSD is a "serious illness." However, PSTD is not often a permanent ailment. Complete recovery within three months of the onset of symptoms occurs in approximately one-half of adults. *Id.* DSM-V.

In Mr. Thul's case,

> "The prognosis would have been much improved if Mr. Thul had been exposed to a consistently supportive work environment. If that had been the case, his PTSD symptoms would have most likely resolved themselves over the course of 6 months or less and the severe depression would not have occurred."

Pet. App. 108, 109.

### A. Controlling Weight

A [trier of fact] must give the opinion of a treating source controlling weight if he finds the opinion "well-supported by medically acceptable clinical and laboratory diagnostic techniques" and "not inconsistent with the other substantial evidence in [the] case record." *Wilson v. Commissioner of Social Sec.*, 378 F.3d 541, 544 (6th Cir. 2004), citing 20 C.F.R. § 404.1527(d)(2).

### B. Medically Acceptable Clinical Diagnostic Techniques

Among many of Mr. Thul's treating psychiatrists' well-supported and medically acceptable clinical diagnostic techniques, his treatment team provided the NPS with the discretionary awareness that:

> On January 26, 2017 Mr. Thul was the first responder to a gruesome suicide that occurred at a park where Mr. Thul was working. He had contact with the victim shortly before the incident and was nearby when it occurred. He has felt emotionally overwhelmed with flashbacks, nightmares and insomnia, persistent reliving of the moments of that day, irritability and feeling emotionally overwhelmed, and intense anxiety and panic. PTSD symptoms can interfere greatly with ability to function at work and home due to difficulty focusing, avoidance of triggering environment, dysregulation of mood and secondary decline in motivation and energy. Pet. App. at 91.

> In June 2017, an issue arose between Mr. Thul and a supervisor . . . Mr. Thul maintains that he was bullied and intimidated and has filed a report detailing this. Compiling the stress of this claim and having to repeatedly file reports and relive the events of the trauma in the park has worsened the primary PTSD symptoms . . . The quickest path to his recovery will be the one with the most concentration on managing symptoms and healing from the trauma. Pet. App. at 92.

### C. Other Substantial Evidence – Handicapping Barriers

#### i. Egregious Harassing Behavior

The Department of Interior found Bennett and Buskirk's motive was purely retaliatory, "[t]here is sufficient evidence to establish an inference of a causal connection between Complainant's protected activity and his removal because Defendant Bennett (RMO1) and Defendant Buskirk (RMO2) were named as responsible management officials in Complainant's previous EEO complaints, and because of the temporal proximity between RMOl and RMO2's spring 2019 interviews regarding a different EEO complaint and the June 5, 2019 Proposed Removal." Pet. App. 57.

**Establishing** both Defendants Buskirk and Bennett's conduct was, "severe or pervasive, including but not limited to, threatening behavior, touching, hitting, or other egregious harassing behavior." *See Ingraham v. Wright*, 430 U.S. 651, 673, 97 S.Ct. 1401, 1413, 51

L.Ed.2d 711 (1977), the Court declared that "[a]mong the historic liberties protected by the Due Process Clause is the right against 'unjustified intrusions on personal security' at the hands of the state."

### ii. Property Right Deprivations

The other substantial evidence includes Mr. Thul's deprivation of his property right to the mandatory procedures within the NPS Anti-Harassment Policy, Director's Order 16E.

Reference Manual 16E provides the Agency's mandatory procedures that when followed, protects psychologically disabled federal employees from any kind of unwanted supervisory psychological harassment. Applying the facts in this case to the NPS' minimum due process requirements, returns the following mandatory guidance:

> "If the conduct is severe or pervasive, including but not limited to, threatening behavior, touching, hitting, or other egregious harassing behavior, Defendant Bennett, RMO1 shall separate [himself] from [Mr. Thul], at least until the matter otherwise can be resolved . . . Management [Defendant Buskirk, RMO 2], should not move Mr. Thul. If the alleged victim, without having been asked or prompted, specifically requests such a move or transfer, Defendant Buskirk, shall inform Mr. Thul that instead because Defendant Bennett, was the employee alleged to be responsible for the harassing conduct, Bennett may be moved.

> Nonetheless, to the extent possible, the Associate Regional Director for Administration, Defendant Buskirk shall honor Mr. Thul's request."

Pet. App. 112.

**Clarifying** the alleged HWE handicapping barrier: Every named party knew that I "maintain[ed] I was bullied and intimidated . . . " Each individually named defendant also knew Buskirk was not moving Bennett, whose conduct was found to be, "severe or pervasive, including but not limited to, threatening behavior, touching, hitting, or other egregious harassing behavior" and "[I filed 35] reports detailing this."

### iii. Irreparable Harm – NPS EEO Negligent Investigation

On June 14, 2016, the House Committee on Oversight and Government Reform made expressed findings of fact that, dating as far back as 2006, the Service has failed to meet its EEOC requirements that led to a culture of harassment, discrimination and reprisal against NPS employees that was became the standard operating procedure, a fact of life, a normal condition of employment. *See* Oversight of the National Park Service, Serial No. 114-73 (June 14, 2016). Chairman Jason Chaffetz ordering the Department of Interior that this practice must stop immediately.

In 2017, Mr. Thul again made these same harassment, discrimination and reprisal claims in his Case No.: NPS-18-0033, providing Agency EEO managers

with documentary evidence that Resolution Services, LLC was violating 29 C.F.R. § 1614.108(b) by rewriting the narrative in his complaints. Then in 2018, the Complainant in *Complainant, v. Jeff B. Sessions, Attorney General, Department of Justice (Federal Bureau of Prisons)*, Appeal No. 0120150443 (February 28, 2018), made these same serious accusations against the Bureau of Prisons EEO leadership relating to the narrative changes being made in her complaint. The Commission ordering these practices to stop. *Id. Complainant v. Sessions*.

Now, here we are again in 2023, the direct evidence establishing that Defendant Ms. Rose Blankenship, NPS, Chief, Office of Equal Opportunity, despite both Congress and the EEO Commission's warning to stop acting with deliberate indifference, failed to act after receiving knowledge that her subordinate EEO Specialist Defendant Hayes was directing the narrative of this entire investigation. This time by ordering their Contractor, Resolution Services, LLC's lead investigator Wayne Stephens not to investigate Mr. Thul's HWE claims, and restricted this investigation to collecting evidence relating to the removal claim **ONLY**. Pet. App. 114. See also *U.S. v. Caver*, 470 F.3d 220, 233 (6th Cir. 2006), " . . . elements of conspiracy."

Defendant Blankenship's violation of 29 C.F.R. § 1614.108(b) can only be viewed as litigatory abuse targeted directly at the vulnerably weak, psychologically disabled, *pro se* federal employees who have no other choice but to trust in her office.

Therefore this is a case having irreparable harm and inadequacy of legal remedies for psychologically disabled employees who like the petitioner are forced into this compulsory litigation and must proceed *pro se,* at the risk of causing further injuries to themselves and their families. *Albright v. Oliver*, 510 U.S. 266, 271-73, 114 S.Ct. 807, 812, 127 L.Ed.2d 114 (1994), the Court stated that "[t]he protections of substantive due process have for the most part been accorded to matters relating to marriage, family, procreation, and the right to bodily integrity."

**iv. Injury in Fact**

When it became clear that Defendant Buskirk was not moving the employee alleged to be responsible for the harassing conduct, and the NPS EEO office was refusing to investigate the alleged HWE complaint, on April 30, 2018, based on his treating psychiatrist's well-supported and medically acceptable clinical diagnosis, Mr. Thul exercised his constitutional right to be temporarily relocated until the HWE allegations were resolved,

> "Secondarily, the Plaintiff was, also navigating an issue involving a hostile work environment complaint. Each time that the work environment complaint is further delayed in being resolved sets him back tremendously in his PTSD recovery, despite his compliance with treatment recommendations . . . The process of having to reiterate his complaint is both distracting from his treatment and

> traumatic by nature . . . While he has been working towards returning to his prior position, it has become clear that he needs to be relocated to another park. The process of healing from the trauma inflicted by the suicide that occurred involves being able to return to the site of the incident without significant anxiety or dysfunction . . . Therefore, I am writing in support of his request to transfer to another facility working in a similar capacity. We cannot determine a return to work date until we know the status of this request."

Pet. App. at 94.

The documentary evidence establishes Mr. Thul's 35 desperate attempts notifying the individual defendants of his emergent psychological treatment need to be removed from a hostile environment that was medically described to be "distracting from his treatment . . . traumatic by nature . . . and dysfunctional." Despite having this knowledge, not one individual defendant responded.

### D. Challenged Policy of Inaction

With this understanding, it is plain that municipal liability may be imposed for a single decision by municipal policymakers under appropriate circumstances. *Pembaur v. Cincinnati*, 475 U.S. 469, 480 (1986). No one has ever doubted, for instance, that a federal municipality may be liable under the Fifth Amendment for a single decision by its properly constituted legislative body – whether or not that body

had taken similar action in the past or intended to do so in the future – because even a single decision by such a body unquestionably constitutes an act of official government policy. See also *Rauccio v. Frank*, 750 F.Supp. 566 (D.Conn. 1990), the district court allowed a due process claim because the defendants (plaintiff's superiors) had repeatedly acted in a manner that foreclosed his ability to pursue remedies for his demotion and termination under the Civil Service Reform Act of 1978. Similarly, *Grichenko v. United States Postal Serv.*, 524 F.Supp. 672 (E.D.N.Y. 1981), "plaintiff was allowed to bring a due process claim against several postal employees based on their "intentional failure timely to process his claim for compensation in FECA."

**Establishing** the NPS' discriminatory Policy of Inaction. Based on medically acceptable clinical diagnostic techniques, Mr. Thul's treating psychiatrist's all agree Mr. Thul's inability to recover from his psychological injuries **are** consistent with the NPS agency head; EEO Director; agency EEO contractor, including members of their immediate staff's putatively unconstitutional actions taken in the course of their official conduct. Dr. Beasley restating her 2018 position,

> I made it clear previously that it was most beneficial to return him to work as soon as possible in order to minimize on-going stress from being in a state of isolation and uncertainty.

Pet. App. at 98.

### i. The Doctrine of Clean Hands

The guiding doctrine in this case is the equitable maxim that "he who comes into equity must come with clean hands." *Precision Co. v. Automotive Co.*, 324 U.S. 806, 815 (1945). This maxim is far more than a mere banality. It is a self-imposed ordinance that closes the doors of a court of equity to one tainted with inequitableness or bad faith relative to the matter in which he seeks relief, however improper may have been the behavior of the defendant. That doctrine is rooted in the historical concept of court of equity as a vehicle for affirmatively enforcing the requirements of conscience and good faith. This presupposes a refusal on its part to be "the abettor of iniquity." *Bein v. Heath*, 6 How. 228, 247 (1848). Thus while "equity does not demand that its suitors shall have led blameless lives," *Loughran v. Loughran*, 292 U.S. 216, 229 (1934), as to other matters, it does require that they shall have acted fairly and without fraud or deceit as to the controversy in issue. *Keystone Driller Co. v. General Excavator Co.*, 290 U.S. 240, 245 (1933); *Johnson v. Yellow Cab Co.*, 321 U.S. 383, 387 (1944); 2 Pomeroy, Equity Jurisprudence (5th Ed.) §§ 379-399.

This maxim necessarily gives wide range to the equity court's use of discretion in refusing to aid the unclean litigant. It is "not bound by formula or restrained by any limitation that tends to trammel the free and just exercise of discretion." *Keystone Driller Co. v. General Excavator Co.*, supra, 245, 246. Accordingly one's misconduct need not necessarily have been of such a nature as to be punishable as a crime or as to

justify legal proceedings of any character. Any willful act concerning the cause of action which rightfully can be said to transgress equitable standards of conduct is sufficient cause for the invocation of the maxim by the chancellor.

Mr. Thul presents that based on medically acceptable clinical diagnostic techniques, the evidence establishes his psychological injuries **are** consistent with the NPS agency head; EEO Director; agency EEO contractor, including other authorized decisionmakers within their immediate staff's constitutional and statutory violations. Violations proven to be proximate to his inability to provide the documentation necessary to establish he effectuated service of process.

**Thereby** providing this Court the maxim necessary to give wide range to the equity court's use of discretion in refusing to aid the unclean litigant. You are "not bound by formula or restrained by any limitation that tends to trammel the free and just exercise of discretion." *Keystone Driller Co.*

### ii. Theoretical Proof

Remove the NPS agency head; EEO Director; agency EEO contractor, including members of their immediate staff's deliberate indifference and:

> "The prognosis would have been much improved if Mr. Thul had been exposed to a consistently supportive work environment. If that had been the case, his PTSD symptoms would have most likely resolved themselves

> over the course of 6 months or less and the severe depression would not have occurred."

Because the district court's decision serves to aid the unclean litigant, the decision can be said to transgress all equitable standards of judicial discretion. **Therefore,** the Supreme Court must set aside the Eastern District court's decision to grant the Appeared Defendants motion to dismiss under 4(m), and REMAND this case back to the Eastern District because it was obtained without procedure required by law, rule, or regulation having been followed; or, unsupported by substantial evidence." 5 U.S.C. § 7703(c) (1994); see also *Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402, 414 (1971).

## IV. The Sixth Circuit's decision Creates an Intra-District Split between the ED of Tennessee and the Western District of Michigan when Seeking Good Cause

### A. United States Court of Appeals for the Sixth Circuit psychological determination for inability to effectuate service of process

#### i. There Must be physical symptoms

In the case before you, NOT RECOMMENDED FOR PUBLICATION, the U.S. Court of Appeals for the Sixth Circuit court consisting of a panel made up of Circuit Judges Boggs, Griffin, Mathis **DENIED** good cause in my psychological disability claim because I failed to show physical symptoms like "paralysis,

severe muscle spasms, a bladder infection and numerous trips to the Cleveland Clinic for neurological and physical therapy. Symptoms that, according to the panel, would demonstrate my inability to effectuate service of process on the defendants. Pet. App. 7.

### ii. PTSD causes a lack, or is marked by a lack, of intellectual acuity

In this matter, where Mr. Thul's disability is not apparent, substantial weight is being given to the Eastern District's refusal to act, along with the appellate panel's belief that PTSD causes a lack, or is marked by a lack, of intellectual acuity. The panel giving controlling weight to their own unsubstantiated opinion:

> "Nor do we find that Thul's mental disorders excused his failure to effect timely service. As the defendants argue, Thul's mental disorders did not preclude him from filing voluminous pleadings in the district court that required extensive legal research. So we are unpersuaded that these same mental disorders were an external impediment to Thul's ability to effect proper and timely service of process."

As such . . . good cause was **DENIED**. *Id.*

### B. United States District Court for the Western District of Michigan psychological determination for inability to effectuate service of process determination

In *Savoie v. City of East Lansing*, at *4 (6th Cir. Aug. 24, 2022) NOT RECOMMENDED FOR PUBLICATION, the Court consisting of a panel made up of Circuit Judges Moore, Cole and Nalbandian, defined good cause in a psychological disability claim as, "a reasonable, diligent effort to timely effect service of process." *Johnson v. Smith*, 835 F. App'x 114, 115 (6th Cir. 2021) (quoting *Pearison v. Pinkerton's Inc.*, 90 F. App'x 811, 813 (6th Cir. 2004)). Further emphasizing that "we have identified three scenarios constituting good cause under Rule 4(m): (1) when the defendant has intentionally evaded service; (2) when the district court has committed an error; and (3) when a *pro se* plaintiff suffers from a serious illness. *Savoie v. City of East Lansing*, "The common denominator in these situations "is that something outside the plaintiff's control prevents timely service." *Id.*

#### i. Serious Illness Outside the Petitioner's Control – Agency Refusal to Investigate Hostile Work Environment Claim

Circa. September, 2018, Mr. Thul's psychotherapist, Ms. Brook Sprayberry a Licensed Professional Counselor with a Mental Health Service Provider

designation in the state of Tennessee alerted the Agency that:

> "[Mr. Thul] describes that the most challenging aspects that he has experienced has been his continued depression, anxiety, stress over how it is effecting his wife, continual insomnia and nightmares. But the most disturbing aspect is having to retell the story over and over again. He states that he has lost who he was over the course of the past year. Previously Mr. Thul defined himself by what he did, he took great pride in his work and now that he does not have that, it has stripped away his identity."

Pet. App. 120

Mr. Thul's treating psychiatrist Dr. Marie Beasley also notified the NPS that, "[t]he process of healing from the trauma inflicted by the suicide that occurred involves being able to return to the site of the incident without significant anxiety or dysfunction." Pet. App. 94.

More importantly though, the NPS was well aware of Mr. Thul's ongoing harassment complaints involving Defendant Buskirk.

### ii. Biased Decisionmaker

"Our system of law has always endeavored to prevent even the probability of unfairness." *In re Murchison.*, 349 U.S. 133, 136 (1955), "To this end no man can be a judge in his own case and no man is permitted to

try cases where he has an interest in the outcome." In this instant matter, the NPS' properly constituted legislative body, acting as a single municipality, charged Defendant Buskirk with the authority to decide whether or not Mr. Thul would ever have a chance to recover from his line-of-duty caused psychological injuries. Directing, "I would refer you to the Deciding Official, Mr. Buskirk . . . to discuss the matter further."

This Court firmly holds that, "Concededly, a 'fair trial in a fair tribunal is a basic requirement of due process.' *In re Murchison*, 349 U.S. 133, 136 (1955). This applies to administrative agencies which adjudicate as well as to courts. *Gibson v. Berryhill*, 411 U.S. 564, 579 (1973). Not only is a biased decisionmaker constitutionally unacceptable but 'our system of law has always endeavored to prevent even the probability of unfairness.' *In re Murchison, supra*, at 136; cf. *Tumey v. Ohio*, 273 U.S. 510, 532 (1927).

In the petitioner's case, the NPS municipal, having the discretionary knowledge that, "[e]ach time that the work environment complaint is further delayed in being resolved sets [Mr. Thul] back tremendously in his PTSD recovery" acted with deliberate indifference to Mr. Thul's basic right to life, liberty and the pursuit of happiness when he sanctioned, by written order that Defendant Buskirk an obvious biased decision-maker, first, terminate Mr. Thul based solely on his mental disability; then second, walk away without resolving the HWE complaint, "It is our practice not to comment on matters that are the subject of litigation or part of

the Equal Employment Opportunity (EEO) complaint process." Pet. App. 104, 105.

The direct medical evidence identifies that PTSD is healed by being active mentally and physically and engaging in meaningful, stimulating activities. In this instant matter, the documentary evidence establishes the remaining named defendants, while acting in their official and individual capacities, knew of Bennett and Buskirk's unconstitutional plan to terminate Mr. Thul, based solely on his disability. Where they too, after witnessing Buskirk terminate Mr. Thul, turned their backs and walked away; leaving Mr. Thul alone, and in a state of isolation and uncertainty. Pet. App. at 96.

Establishing the individual defendant's culpability for what could be for no other reason than to protect their own careers at the expense of the petitioner's health and welfare. Pet. App. 98; see also *U.S. v. Caver*, 470 F.3d 220, 233 (6th Cir. 2006), " . . . elements of conspiracy."

Because the Eastern District court failed to determine if the Defendants' motive to violate the Constitution, and the guiding principles of law, were proximate to the serious psychological injuries causing Mr. Thul's inability to properly effectuate service of process, the Supreme Court must set aside the Eastern District court's decision to grant the Appeared Defendants motion to dismiss under 4(m), and REMAND this case back to the Eastern District because it was obtained without procedure required by law, rule, or regulation having been followed; or, unsupported by

substantial evidence." 5 U.S.C. § 7703(c) (1994); see also *Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402, 414 (1971).

## V. The Sixth Circuit's decision conflicts with the Supreme Court's decisions related to principles of Expeditious Case Management and Preclusive Effect under the Rehabilitation Act

The importance that Title VII attaches to the avoidance of delay is evident from the language of the statute. *Equal Emp. Op. Com'n v. MacMillan Bloedel Containers, Inc.*, 503 F.2d 1086 (6th Cir. 1974). Section 2000e-5(e), *supra*, places a relatively short statute of limitations on the time for filing a charge. Also, § 2000e-5(f)(4) requires the chief judge of the district in which the civil action is pending to designate immediately a judge to hear the case. The designated judge has the responsibility to set the case for "hearing at the earliest practicable date and to cause the case to be in every way expedited." 42 U.S.C. § 2000e-5(f)(5). Interestingly noted in the petitioner's Case No. 1:22-cv-96, Judge McDonough after watching Mr. Thul again fail at his attempt to effectuate service of process, intervened *pro interesse suo* and accommodated Mr. Thul by providing him with step by step instructions to educate him as to how to effectuate service of process in his court. Pet. App. 84-87. After which, service of process became a non-issue in that case.

Evincing a need for the Supreme Court to address the constitutional question:

> How is service of process even relevant in a psychological disability case when the equal protection component of the Due Process Clause confers on all federal employees injured in the line-of-duty, a federal constitutional right to be free from any discrimination, that would prevent cases like Mr. Thul's from being in every way expedited? 42 U.S. Code § 2000e-5(f)(5), " . . . to cause the case to be in every way expedited."

### A. Theoretical Test

Remove the handicapping barrier, and Mr. Thul is no longer being deprived access to the federal judicial court system based, "solely on his disability." 29 U.S.C. § 794 (Supp. III 1979).

### B. Preclusive Effect

In this case, the Department of Interior has already found the National Park Service (NPS) liable for the injuries and damages caused by their violation of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (Supp. III 1979). Pet. App. 22-62. Yet, the NPS refuses to take final action on this Rehabilitation Act claim. Pet. App. 63, VI. Statement of Relief. And, the Eastern District court is denying the petitioner access to this property right by locking the courthouse doors under 4(m). See *University of Tennessee v. Elliott*, 478 U.S. 788, 799

(1986), citing *Utah Construction & Mining Co., supra*, at 422, "federal courts must give the agency's fact finding the same preclusive effect to which it would be entitled in the [federal] courts."

Because the Eastern District court's decision conflicts with this Court's decisions related to principles of Expeditious Case Management and Preclusive Effect under the Rehabilitation Act, the Supreme Court must set aside the Eastern District court's decision to grant the Appeared Defendants motion to dismiss under 4(m), and REMAND this case back to the Eastern District because it was obtained without procedure required by law, rule, or regulation having been followed; or, unsupported by substantial evidence." 5 U.S.C. § 7703(c) (1994); see also *Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402, 414 (1971).

## VI. The U.S. District Court Eastern District of Tennessee's decision conflicts with the Tenth Circuit decision related to principles of serving multiple defendants under Rule 4.

In determining whether Mr. Thul should be granted a permissive extension of time, several factors should guide the district court. *Espinoza v. U.S.*, 52 F.3d 838, 842 (10th Cir. 1995). First, the advisory committee's note states that "[r]elief may be justified . . . if the applicable statute of limitations would bar the refiled action." Fed. R. Civ. P. 4(m) advisory committee's note (1993). As the petitioner noted, the Eastern

District court's decision sounds the death knell for his entire cause of action.

Applying Mr. Thul's case to *Espinoza* in the Tenth Circuit, would yield, upon reconsideration of Mr. Thul's claim, the Eastern District court should consider the limitations period in deciding whether to exercise its discretion under Rule 4(m).

Directly applicable to this case, other amendments to Fed. R. Civ. P. 4 suggest that policy considerations might weigh in favor of granting a permissive extension of time to Mr. Thul. Specifically, Fed. R. Civ. P. 4(i)(3), a provision added by the 1993 amendments, appears to provide an exception to Fed. R. Civ. P. 4(m) in certain cases in which the plaintiff has tried, but failed, to effect service upon the United States. Rule 4(i)(3) reads:

> The court shall allow a reasonable time for service of process under this subdivision for the purpose of curing the failure to serve multiple officers, agencies, or corporations of the United States *if the plaintiff has effected service on either the United States Attorney or the Attorney General of the United States.* Fed. R. Civ. P. 4(i)(3) (emphasis added).

The advisory committee's note to Rule 4(i) states that this rule "saves the plaintiff from the hazard of losing a substantive right because of failure to comply with the requirements of multiple service under [Rule 4(i)]." Fed. R. Civ. P. 4(i) advisory committee's note (1993). *Espinoza* at 842. Because Mr. Thul did serve

either the United States Attorney or the Attorney General, Rule 4(i)(3) does apply to his case, and he has therefore shown "good cause" under this rule. *See* also DOI Waiver, Pet. App. 118.

It is Mr. Thul's belief that because there is documentary evidence that unquestionably establishes his psychological injuries **are** causally connected to, and consistent with, the NPS agency head; EEO Director; agency EEO contractor, including members of their immediate staff's putatively unconstitutional actions taken in the course of their official conduct. Therefore the Advisory committee would clearly evince the need for a solicitous attitude toward the Fifth Amendment rights protecting the vulnerable, psychologically disabled plaintiffs, who like the petitioner, cannot afford an attorney, as well.

For this reason the Advisory committee's note to Rule 4(i) states that this rule saves plaintiffs who are forced into this compulsory litigation; and then are faced with the complex requirements of multiple service from the hazard of losing a substantive right because of failure to comply with the requirements of multiple service under Rule 4(i).

## VII. Epilogue

This case sufficiently demonstrates that even today, there still exists inexplicably differing standards of proof among the many courts when psychologically disabled federal employees proceeding *pro se* seek "good cause" for failing to timely effectuate or attempt

to effectuate service of process under Fed. R. Civ. P. 4. Thereby providing the bases of injunctive relief required to unlock the Eastern District courthouse doors to federal employees suffering from line-of-duty injuries, who are simply seeking to exercise their constitutional right to protect themselves as well as their families from the NPS' unlawful policies. See *Lujan v. National Wildlife Federation*, 497 U.S. 871, 883 (1990) "A person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of [29 U.S.C. § 794 (Supp. III 1979); 5 C.F.R. § 353.301(d); and 29 C.F.R. § 1614.108(b)] is entitled to judicial review thereof." 5 U.S.C. § 702.

**Establishing** the U.S. District Court Eastern District of Tennessee at Chattanooga's tolling of the death knell under 4(m) has made this litigation "so gravely difficult and inconvenient" for psychologically disabled parties who are unfairly put at an even further "severe disadvantage" in comparison to their opponents. *Compton v. Jesup*, "Every court has inherent equitable power to prevent its own process from working injustice to any one, and may entertain a petition by the aggrieved person, either in the form of a simple motion, or by intervention *pro interesse suo.*" Where, "[t]he bases of injunctive relief in the federal courts has always been irreparable harm and inadequacy of legal remedies."

## VIII. *Ergo* the Questions Presented before this Court.

Whether service of process is relevant in a psychological disability case when the equal protection component of the Due Process Clause confers on all federal employees injured in the line-of-duty, a federal constitutional right to be free from any discrimination, that would prevent cases involving Post-Traumatic Stress Disorder from being in every way expedited? 42 U.S. Code § 2000e-5(f)(5), " . . . to cause the case to be in every way expedited."

Whether or not the National Park Service municipality or its properly constituted legislative body's putatively unconstitutional actions should be a consideration in determining "good cause" for a psychologically disabled employee's inability to effectuate service of process; otherwise, tolling the death knell for their entire cause of action?

## CONCLUSION

I am requesting this Court's intervention *pro interesse suo* in a cause in which despite repeated Congressional and EEO Commission warnings to the NPS' properly constituted legislative bodies, the named defendants' deliberate indifference continues to be targeted at the vulnerably weak, and psychologically disabled *pro se* federal employees, who have no other choice but to trust the offices in which the defendants hold, and that their decisions will be based on their

sworn allegiance to protect the U.S. Constitution; not one another. See 5 U.S. Code § 3331 – Oath of office.

Respectfully submitted,

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