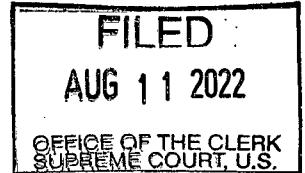


No. 22-152

ORIGINAL

In the  
Supreme Court of the United States

~~RECEIVED  
SUPREME COURT OF THE UNITED STATES  
AUGUST 11, 2022~~



THOMAS EARL DUNN, *sui juris*,

*Petitioner,*

v.

ELIZABETH POST, ET AL.,

*Respondents.*

On Petition for a Writ of Certiorari to the  
United States Court of Appeals for the Sixth Circuit

**PETITION FOR A WRIT OF CERTIORARI**

Thomas E. Dunn, *sui juris*  
*Petitioner Pro Se*  
425 Cottage Avenue  
Clare, MI 48617  
(989) 709-8079  
tomdun@gmx.com

AUGUST 12, 2022

SUPREME COURT PRESS

◆ (888) 958-5705 ◆

BOSTON, MASSACHUSETTS

## **QUESTIONS PRESENTED**

1. Shall the lower Courts, District Court followed by the Appellate Court, deliberately stand a Constitutional conflict in law, by judicially shielding the State Public Actor(s) by amending the Eleventh Amendment beyond the scope of its written Text by Order of the aforementioned lower Courts?
2. Shall the lower Courts, District Court followed by the Appellate Court contradict this Court that ruled Nominal Damages are an actionable cause for the addressment of Constitutional and Legal Wrongs committed by a State's Public Actors?
3. Shall the lower Courts, the District Court followed by the Appellate Court, judicially move contrary to the Laws of Michigan, the Laws of the United States, the Rules of Court, inclusive of the Michigan State Constitution and the Constitution of the United States for the United States of America to thereby rule that Elizabeth Post, the lead Defendant in this instant case standing in her Official and Individual Capacity, breached the Constitution and Laws of Michigan, and the United States, to then be declared unaccountable by Federal Judicial Decree for Constitutional and Lawful wrongs, that targeted this Petitioner.
4. Shall the lower Courts, the District Court followed by the Appellate Court, judicially protect Officers of the State's Local Unit of Governance, alongside co-respondents, who all are State Public Officers under the realm of "Sovereign immunity" from accountability in law and equity for Breaching Michigan's Public Trust, which is a common law wrong?

## **PARTIES TO THE PROCEEDINGS**

### **Petitioner**

---

- Thomas Earl Dunn, *sui juris*

### **Respondents**

---

- Elizabeth Post, Magistrate
- Dr. Karen L. Moore, Court Administrator, 80th District Court
- Zach Palmreuter, Former City of Gladwin, MI Chief of Police
- Jocelyn Benson, Secretary of State
- Michael Shea, Gladwin County, MI Sheriff
- Court Bailiff's Officers, Deputy Sheriffs, in the individual and official capacities
- Charles P. Jones, Former City of Gladwin, MI Chief of Police
- Darlene Jungman
- Linda K. Hawkins, Court Reporter, 80th District Court Clerk
- Gladwin County, MI
- City of Gladwin, MI

## **LIST OF PROCEEDINGS**

United States Court of Appeals for the Sixth Circuit  
No. 21-1412

Thomas Earl Dunn, *Plaintiff-Appellant*, v.  
Elizabeth Post, Magistrate, et al. *Defendants-Appellees*.

Date of Final Opinion: January 27, 2022

Date of Rehearing Denial: March 15, 2022

---

United States District Court District Eastern  
District of Michigan, Northern Division

Case No. 20-CV-11329

Thomas Earl Dunn, *Plaintiff*, v.  
Elizabeth Post, et al. *Defendants*.

Date of Final Order: April 16, 2021

**TABLE OF CONTENTS**

	<b>Page</b>
QUESTIONS PRESENTED .....	i
PARTIES TO THE PROCEEDINGS .....	ii
LIST OF PROCEEDINGS .....	iii
TABLE OF AUTHORITIES .....	vi
OPINIONS BELOW .....	1
JURISDICTION.....	1
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED .....	2
INTRODUCTION .....	3
STATEMENT OF THE CASE.....	11
REASONS FOR GRANTING THE PETITION.....	13
IN SUMMARY .....	20
CONCLUSION.....	20

**TABLE OF CONTENTS – Continued**

	Page
<b>APPENDIX TABLE OF CONTENTS</b>	
<b>OPINIONS AND ORDERS</b>	
Opinion of the United States Court of Appeals for the Sixth Circuit (January 27, 2022) .....	1a
Order of the United States Court of Appeals for the Sixth Circuit (May 12, 2021) .....	6a
Order of the United States District Court for the Eastern District of Michigan Northern Division (April 16, 2021) .....	8a
Order Overruling Amended Complaint and Sanctions Motion (December 28, 2020) .....	10a
Magistrate Judge's Report and Recommendation (November 19, 2020) .....	25a
Plaintiff Request for Entry of Default (October 29, 2020) .....	38a
Amended Complaint (September 18, 2020) .....	41a
<b>REHEARING ORDER</b>	
Order of the United States Court of Appeals for the Sixth Circuit Denying Petition for Rehearing En Banc (March 15, 2022) .....	140a

## TABLE OF AUTHORITIES

	Page
<b>CASES</b>	
<i>Board of Trustees of Univ. of Ala. v. Garrett,</i> 531 U.S. 356 (2001) .....	13
<i>Chisholm v. Georgia,</i> 2 U.S. 419 (1793) .....	9
<i>Erie Railroad Company v. Tompkins,</i> 304 U.S. 69 (1938) .....	16, 17
<i>Ex Parte Young,</i> 209 U.S. 123 (1908) .....	8, 13, 18
<i>Friends of Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc.,</i> 528 U.S. 167 (2000) .....	15
<i>Kelly Ann Chakov McDougall v. County of Ventura, No. 20-56220 (January 20, 2022)</i> .....	9
<i>Michigan Pub. Util. Comm'n v. Duke,</i> 266 U.S. 570 (1925) .....	7
<i>Thomas M Cooley Law Sch v. Doe 1,</i> 300 Mich. App. 245 (2013) .....	16
<i>Uzuegbunam v. Preczewski,</i> 141 S. Ct. 792 (2021) .....	9, 11, 18
<b>CONSTITUTIONAL PROVISIONS</b>	
Mich. Const., art. III § 2 .....	3, 8, 11
U.S. Const. amend. XI .....	passim
U.S. Const. amend. XIV .....	2, 7, 9
U.S. Const. art. III, § 2 .....	3, 8, 9
U.S. Const. art. V .....	19

**TABLE OF AUTHORITIES – Continued**

	Page
U.S. Const. art. XI, § 1 .....	3
<b>STATUTES</b>	
18 U.S.C. § 31(6) .....	5
28 U.S.C. § 1254(1) .....	1
28 U.S.C. § 1291.....	1
28 U.S.C. § 1331 .....	1
28 U.S.C. § 1343 .....	1, 9, 12
28 U.S.C. § 1367(a) .....	1
28 U.S.C. § 1391b.....	1
42 U.S.C. § 1983.....	1, 2, 9, 16
42 U.S.C. § 1988.....	1
49 U.S.C. § 13102(14) .....	6
Michigan Public Act 254 of 1933 § 1(c).....	4
Michigan Public Act 300 of 1949, Michigan Vehicle Code .....	3
<b>REGULATIONS</b>	
49 C.F.R. § 523.5 .....	5



## **OPINIONS BELOW**

The opinion of the U.S. Court of Appeals for the Sixth Circuit, in *Thomas Earl Dunn v. Elizabeth Post et al.*, No. 21-1412 is included at App.1a.

The decision of the U.S. District Court Eastern District of Michigan, Northern Division, in *Thomas Earl Dunn v. Elizabeth Post et al.*, No. 1:20-cv-11329-BC is included at App.6a.



## **JURISDICTION**

The District Court had jurisdiction to decide the case under Title 28 U.S.C. § 1331, § 1343. The District Court had supplemental jurisdiction over the State law claim pursuant to Title 28 U.S.C. § 1337(a), § 1331b and Title 42 U.S.C. § 1983, and § 1988.

The Sixth Circuit had jurisdiction to hear an appeal of the District Court's ruling under 28 U.S.C. § 1291. The circuit issued its judgment/order on January 27, 2022. On May 15, 2022 the circuit under the hand of the Sixth Circuit Clerk denied rehearing en banc. (App.140a).

This Court granted an extension to file this petition by August 12, 2022. Sup. Ct. No. 21A625. This petition is timely and invokes the Court's jurisdiction under Title 28 U.S.C. § 1254(1).



## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

### **U.S. Const., amend. XI**

The Eleventh Amendment provides in the relevant part:

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

### **U.S. Const., amend. XIV § 1**

The Fourteenth Amendment provides in the relevant part:

(1) All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

### **42 U.S.C. § 1983**

Title 42 U.S.C. § 1983 states in its relevant part:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of

the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, . . .



## INTRODUCTION

The singular act that was moved by the hand of Magistrate Elizabeth Post in violation to the Michigan Constitution and Laws on July 10th, (Case Number 19-1455 OT) 2019 directly violated Article V of the Constitution of United States, inclusive Article III § 2 and Article XI § 1 of the Michigan Constitution of 1963.

The Magisterial actions of Elizabeth Post were predicated upon the Fiction of Law certified by the Secretary of State Office, currently under the Executive hand of Jocelyn Benson Michigan's Secretary of State.

The Magisterial action of arraignment convened on June 30, 2019 for allegations addressing alleged violations of the "Michigan Vehicle Code", Public Act 300 of 1949, administratively implemented as the Uniform Traffic Code for Cities, Townships, and Villages by the Department of State Police, was reliant upon the legal fiction that the Petitioner operated a Motor Vehicle within the regulatory sphere of intrastate commerce as a publicly certified common carrier.

The Police Power of the State addressing the regulation of the Common Carrier operating under a Certificate of Authority issued by the Michigan Department of State Police, shall not be superimposed upon a

Michigander under the color of law, who is operating his Non Passenger Automobile in compliance to the Rules of the Road.

Michigan Public Act 254 of 1933 § 1(c):

“Certificate of authority” means a certificate issued under this act to a motor carrier authorizing a transportation service.

At no time during the pendency of this litigative adventure originating on the docket of the Magistrate Elizabeth Post, did the State Public Actors document their claim that the non-passenger automobile of the Petitioner was Common Carrier operating in intrastate, and or interstate Commerce.

The Laws of Michigan, administrative authority of State Officers sitting in Michigan’s Public Trust shall at all times stand in compliance to Constitutional limitations.

In this instant case, originating on the Docket of Magistrate Elizabeth Post, who moved unconstitutionally to Fetter the Substantive Rights of this Petitioner, by relying upon a Public Policy originated within the Offices of the Michigan Secretary State, who inversely condemned his non-passenger automobile for Public use with the issuance of a Certificate of Title for a Motor Vehicle inclusive of Registration Plates to be affixed to the Rear bumper of His Non-Passenger Automobile, as if said Petitioner was engaged in the statutory privilege of intrastate and or interstate commerce under a Certificate of Authority as a Common Carrier providing carriage for hire.

Michigan’s State Public Actors, sitting in their Public Offices have no Constitutional Standing to forcibly

refuse this Petitioner the use of his Non-Passenger Automobile, unless he may accept said State's colorful Public Policy that his private property may be inversely condemned as an administrative certified Common Carrier statutorily defined as a "Motor Vehicle".

**18 U.S.C. § 31(6). MOTOR VEHICLE:**

The term "motor vehicle" means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, passengers and property, or property or cargo.

It is beyond the power of the State by legislative fiat to convert the Petitioner's Private Property, used exclusively as a Non-Passenger Automobile into a Public Utility, in this instance statutorily defined as the Motor Vehicle.

**49 CFR § 523.5**

**NON-PASSENGER AUTOMOBILE:**

A non-passenger automobile means an automobile that is not a passenger automobile or a work truck and includes vehicles described in paragraphs (a) and (b) of this section:

This Petitioner did present himself to the Office neither of the Secretary State, nor to the Department of State Police that his non-passenger automobile was to operate as a *Motor Carrier*, and or *Private Motor Carrier* in Interstate and or Intrastate Commerce in Transportation for compensation under Federal Authority and or State Authority.

## 49 U.S.C. § 13102(14)

## MOTOR CARRIER:

The term “motor carrier” means a person providing motor vehicle transportation for compensation.

The Arraignment moved Elizabeth Post is a judicial ruling that exposed the undeniable facts that the Policies, and Regulations implemented by the Department of State Police, and the Secretary of State Office in Michigan, are the cause of, and the moving force behind, the statutory and constitutional violations that were clearly articulated by the Petitioners in his Original and Amended Complaint submitted in the Lower Court.

The unlawful arraignment moved by Elizabeth Post on July 10, 2019 was implemented with all resources available to the Public Actors moving from within the Office’s of Michigan Executive Departments.

Michigan’s Department of State Police, and Secretary of State have directed individually and collectively the implementation of a colorful Public Policy, that directs Civil Personnel under said Departments’ administrative direction to routinely issue improper documentation as if said recipient, in this instance, this Petitioner was requesting documentation to operate a Motor Carrier for compensation on the highways and byways of Michigan.

This institutionalized public policy under the direction of the Respective Appointed, and elected Officers sitting the Department of State Police, and Secretary of State Office, led the Magistrate Elizabeth Post and all her Co-Respondents to move singularly and collectively under the color of public authority from where they

all unlawfully, and fraudulently Breached Michigan's constitutionally constituted Public Trust.

This Public Policy of Michigan's Public Actors to inversely condemn the Private Property of this Petitioners private use of his Non-Passenger Automobile under the regulatory scheme is only applicable to the operation of a "Motor Vehicle" which was defined by the Court in *Michigan Pub. Util. Comm'n v. Duke*, 266 U.S. 570, 577-578 (1925):

Moreover, it is beyond the power of the state by legislative fiat to convert property used exclusively in the business of a private carrier into a public utility, or to make the owner a public carrier, for that would be taking private property for public use without just compensation, which no state can do consistently with the due process of law clause of the Fourteenth Amendment.

These Constitutional and Lawful Breaches of the Public Trust moved by the Respondent(s) from within the Offices of Michigan's Executive Department by design violated the Substantive Rights of the Petitioner.

*Incredulity*, in response to this Petitioner's address-  
ment of the Laws of Michigan and the United States regarding Private Property, the District Court, suppor-  
ted by the Appellate Court's Majority, chose to judicially  
circumnavigate the known ruling of this Court; specif-  
ically the clearly state case dicta addressing Transpor-  
tation in Commerce for Compensation by the Motor  
Carrier articulate succinctly in *Michigan Pub. Util.*  
*Comm'n v. Duke*, 266 U.S. 570.

The Respondents relied upon the exemplification of the 11th Amendment as their means to substantiate

that they may Breach the Public Trust of Michigan without concern, by claiming they have Sovereign Immunity such that they are not answerable to the Michigan State Citizens when they blatantly impose a Public Policy that intentionally violates the Constitutional Limitations of their Public Authority.

This pretext that the Eleventh Amendment may be invoked by Elizabeth Post and all her Co-Respondents first in the District Court, to then be upheld by the 6th Circuit Appeals Court conflicts with the Court's precedent clearly articulated in *Ex Parte Young*, 209 U.S. 123, 124 (1908). This conflict is exemplified by Elizabeth Post, and all her Co-Respondents who had no singular, or collective standing as a State elected and or appointed Public Officer to enforce an unconstitutional act by violating her Oath of Public Office.

Elizabeth Post upon taking the Oath of Public Office, as did all her Co-Respondents, in compliance to Article XI § 1 of the Michigan State Constitution, had the solemn constitutional and lawful duty to uphold the Constitution and Laws of the United States and Michigan. Elizabeth Post with the avid support of all her Co-Respondents chose to intentionally violate their sworn public oath of office by violating the very laws they all singularly and collectedly swore to uphold.

The Eleventh Amendment does not by "exemplification" and or "stare decisis" prohibit State Citizens from addressing the civil wrongs of its State's Public Actors.

It is a fact of Constitutional Law that the Constitution itself shall not contradict itself.

Article III § 2 of the Constitution of the United States for the United States of America states clearly

and succinctly: "The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;"

The Eleventh Amendment did not abridge, nor conflict with Article III § 2. The 11th Amendment was enacted in response to the Court's decision of *Chisholm v. Georgia*, 2 U.S. 419 (1793) which thereby constitutionally prohibited non State Citizens for pursuing suit against a State of the more Perfect Union in the Federal Court.

The Civil Rights Act of 1871 codified in Title 42 U.S.C. § 1983 enacted in conformity to the Fourteenth Amendment to the Constitution of the United States authorizes just such actions for State Citizens to address the Civil Wrongs directed toward themselves that violated their Substantive Rights under the Color of State law to stand a litigation for relief in the District Court.

The jurisdictional authority for addressing the Civil Wrongs moved by State Public Actors that abridge the Substantive rights of a State Citizen shall sit in the District Court is codified in Title 28 U.S.C. § 1333.

*Second*, the District Court, supported by the Appellate Court Majority Opinion conflicts with the Court's opinion addressing Nominal Damages inclusive of disagreeing with the 9th Circuit Court of Appeals application thereof. The 9th Circuit applied standing for nominal damages in *Kelly Ann Chakov McDougall v. County of Ventura*, No. 20-56220, January 20, 2022, where said appeals court concurred as stated clearly in *Uzuegbunam v. Preczewski*, 141 S. Ct. 792, 802 (2021):

“Under *Uzuegbunam*, therefore, the fact that Appellants sought damages precludes a mootness claim.”

*Third*, the District Court, supported by the Appellate Court Majority Opinion raises an issue of exceptional importance: *i.e.*, whether State Public Actors that move outside the Sovereign authority of the State, which in this instant case accrued by Executive Edict on April 30th, 2020, to commence in May 1st 2020, shall be held accountable for their Constitutional and Lawful wrongs moved under the color of law.

Elizabeth Post directed by her unlawful command that Michigan’s Executive Department’s Civil Personnel, inclusive of all her Co-Respondents, to enforce her aforementioned executive decree as if said acts had the full force of Constitutional and Lawful authority. The Public Action moved by Michigan’s Executive Department as unlawfully decreed by Elizabeth Post was declared to be unconstitutional and unlawful acts by the Michigan State Supreme Court.

*Fourth*, in overt contradiction to the Judicial Ruling by the Michigan State Supreme Court, the District Court, (who itself petitioned the Michigan Supreme Court addressing Elizabeth Post’s Executive Orders) followed by the Appellate Court Majority opinion, agreed that the unconstitutional and unlawful authority moved by Elizabeth Post with the support of her Co-Respondents from within the offices of Michigan’s Executive Department was protected by exemplifying beyond its constitutional written limitations the Eleventh Amendment, by proclaiming said State Public Actors within Michigan’s Executive Departments may be wrapped within Sovereign Immunity by Judicial Decree.



## STATEMENT OF THE CASE

1. The District Court, as does the Appellate Court Majority Opinion Conflicts with the Court's Case Law, where the conflicting Judicial Ruling raises an issue of exceptional importance: *i.e.*, whether State Public Actors that move outside the Sovereign authority of the State may proclaim 11th Amendment Sovereign Immunity for Breaching the State's constitutionally constituted Public Trust.
2. The District Court, as does the Appellate Court Majority Opinion conflicts with the Court's opinion addressing Nominal Damages that is Inconsistent with Supreme Court ruling in *Uzuegbunam v. Preczewski*, 141 S. Ct. 792, 802 (2021).
3. This Case Involves a Question of Exceptional Importance: Whether the District Court's Order as supported by the Appellate Court Majority Opinion where said opinion(s) directly conflicts the Court's ruling that the Michigan's Public Actors shall be held accountable under the laws of the United States when said actors violate the Constitution and Laws of the United States and Michigan.
4. Elizabeth Post Breached the Public Trust by directly violating her Oath of Public Office to wit, the Michigan State Constitution Article XI § I:

All officers, legislative, executive and judicial, before entering upon the duties of their respective offices, shall take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the

Constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of . . . according to the best of my ability.

5. Elizabeth Post, a Bar Licensed Attorney in Michigan, chose to violate her Oath of Public Office on July 10th, 2019 by cloaking herself with illegal authority that sat outside the Laws of the Michigan for the regulation of a "Motor Vehicle". As did all the Respondents.

6. All public acts directed by Elizabeth Post as enforced by the elected, and appointed public actors in Michigan's Executive Departments and Local Units of Governance implemented by her Co-Respondents who singularly and collectively stood in overt violation to first Michigan, and secondly Federal Constitutional authority that thereby puts these aforementioned Public Actors outside the Sovereign Immunity of the State.

7. Where there is no Lawfully constituted constitutional authority to support the wrongful acts of Public Actors no Federal Judicial authority may cloak the wrongful acts of State Public Actors by exemplification of the 11th Amendment to shield said public actors from being held accountable for their singular and collective civil wrongs that subverted under the color of the law the Substantive Rights of Michigan State Citizens.

8. The Petitioner stood His Civil Complaint in the United States District Court as lawfully authorized in compliance to Title 28 U.S.C. § 1333(a): "The district courts shall have original jurisdiction of any civil

action authorized by law to be commenced by any person.”



### REASONS FOR GRANTING THE PETITION

*Ex Parte Young*, 209 U.S. 123 (1908) clarifies that when Public Actors violate the statutory law, the Common Law, and the Constitution of the State and of the United States, they are no longer acting within the Sovereign Immunity of the State. The Sovereign Immunity of the State shields Public Actors who stand first and always within the Law, and Constitutions authorizing their Public Duties.

It is not necessary that the duty of a State officer to enforce a statute be declared in that statute itself in order to permit his being joined as a party defendant from enforcing it; if, by virtue of his office, he has some connection with the enforcement of the act, it is immaterial whether it arises by common general law or by statute.

*Ex Parte Young*, 209 U.S. 123,124 (1908)

The District Court, with the support of the Appellate Court Majority opinion chose to support the stare decisis of judicial precedent that unconstitutionally amended the 11th Amendment to the Constitution of the United States by judicial decree beyond its constitutionally limited application, as sadly restated in *Board of Trustees of Univ. of Ala. v. Garrett*, 531 U.S. 356, 361 (2001):

The Eleventh Amendment provides:

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

Although by its terms the Amendment applies only to suits against a State by citizens of another State, our cases have extended the Amendment's applicability to suits by citizens against their own States.

Elizabeth Post's and all her Co-Respondents use of the Michigan's Executive Department's Public resources to advance their singular and collective defenses in this instant case addressing said Respondents' violating the Laws and Constitution of Michigan and of the United States, does not substantiates the District Court's Judicial cloaking of said parties by exemplification within the cloak of the Eleventh Amendment's Sovereign Immunity.

The State is not, and was not a Party in this litigation. Elizabeth Post, standing as an appointed Public Actor was proven to have intentionally moved outside the Sovereign Authority of the State's Governance, by invoking under the color of law unconstitutional edicts, standing as a Public Policy that operates under the color of law to inversely condemn this Petitioner's Substantive Rights to the Due Processes of Constitutional Constituted Laws of Michigan, and of the United States.

These actionable facts substantiates that Elizabeth Post's moving in unlawful concert with her associated

Co-Respondents in this instant case controversy stand outside the Sovereign Immunity of the State's Governance. At all-times in this instant case the Respondents stood outside their public offices in their individual capacity when they collectively and singularly enforced unlawful directives from the Office of the Secretary of State Michigan and Department of Michigan State Police.

The Respondents' Public Titles are mere recognition of the Public Office authorities that these elected and appointed public state actors breached in order to advance their unlawful conspiracy to violate the Substantive Rights of the Petitioner's use of his Non Passenger Automobile.

Elizabeth Post at all-times during the Pendency of this Litigation is a Member of the Michigan State Bar, who knows the law, and has proven her willingness to violate Michigan State Law to advance a political tyranny by usurping the Republican Governance of Michigan, in direct violation to the Constitution and Laws Michigan and of the United States.

This presumptive statement moved by the District Court as supported by the Appellate Court's Majority Opinion is a fictitious judicial claim stood to invoke that which has no constitutional standing in this instance case, judicially declared "Mootness".

The Court stated in *Friends of Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc.*, 528 U.S. 167 190 (2000):

Careful reflection on the long-recognized exceptions to mootness, however, reveals that the description of mootness as "standing set in a time frame" is not comprehensive.

The Petitioner's Private Rights (Substantive Constitutional and Legal Rights) were unconstitutionally suborned by the lawless acts of Elizabeth Post and all her fellow Co-Respondents moving from within the offices of Michigan's Executive Department inclusive of the Offices of the Local Unit of Government, where at all times said public actors moved under the color of State law that put them singularly, and collectively outside the Shield of the State's Sovereign Immunity.

The Michigan Court stated: "A matter is moot if this Court's ruling cannot for any reason have a practical legal effect on the existing controversy." *Thomas M Cooley Law Sch v. Doe 1*, 300 Mich. App. 245, 254 (2013).

When State Public Actors step outside the laws of the State to coercively rule by illegal hand under the color of State Public Law, from where said acts unlawfully subordinate Michigan State Citizens' Constitutionally protected Rights to Life, Liberty and Property, an addressment of those inequitable wrongs by Moving a Title 42 U.S.C. § 1983 civil claim in a Federal Court in conformity to Title 28 U.S.C. § 1343 is not Moot.

The Court stated in *Erie Railroad Company v. Tompkins*, 304 US 69, 79 (1938): "the authority and only authority is the State, and, if that be so, the voice adopted by the State as its own [whether it be of its Legislature or of its Supreme Court] should utter the last word."

An unconstitutional and unlawful authority moved by the Public Actors populating Michigan's Executive Department and Local Unit of Government is not a last word, nor a first word; it is clearly the words of an unlawful Breach of Michigan's Constitutionally Constituted Public Trust.

The District Court as supported by the Appellate Court Majority Opinion, shall not invoke 11th Amendment Constitutional immunity by colorful judicial decree, wherein said judicial directive is moved in known contravention to a Ruling by the United States Supreme Court, and the Laws of the State as clearly stated in *Erie Railroad Company v Tompkins* 304 US 69, 79 (1938):

Thus, the doctrine of *Swift v. Tyson* is, as Mr. Justice Holmes said,

[a]n unconstitutional assumption of powers by courts of the United States which no lapse of time or respectable array of opinion should make us hesitate to correct.

Elizabeth Post moving through the Magistrate Offices of Michigan's Judicial Department intentionally asserted the Full Force of State resources in order to advance an unlawful and unconstitutional scheme that was initiated by her hand on July 10th, 2019.

Elizabeth Post, and her Co-Respondents moved outside the State's Sovereign Immunity, is an overt Breach of Michigan's Constitutional Constituted Public Trust, which is a Common Law wrong.

The District Court, with the support of the Appellate Court Majority Opinion, refused to lawfully acknowledge the Petitioner's lawful standing to recoup nominal damages was reliant upon unconstitutionally assuring Elizabeth Post and all her Co-Respondents under the color of the 11th Amendment Sovereign Immunity by Judicial Decree.

The Respondents who may be recognized by Title of Public Office, said title of office does not protect said

Respondents from the Petitioners' equitable recoupment for their depravation of rights under the color of law.

The Respondents as Led by Elizabeth Post, singularly and collectively moved an unlawful public policy under the Color of State Law outside the Sovereign authority and immunity of the State. Such wrongful acts as moved by Elizabeth Post and her Co-Respondents from the offices of Michigan's Executive Department, stands as completed constitutional and legal wrongs moved by their illegal hands.

The Appellate Court Majority Opinion affirming the District Court's denial of the Petitioners' equitable claims for nominal damages was mooted, contradicts the 9th Circuit Court of Appeals, where it acknowledged its lawful necessity to stand in compliance to the Court's decision in *Uzuegbunam v Preczewski*, 141 S. Ct. 792, 802 (2021): "Under Uzuegbunam, therefore, the fact that Appellants sought damages precludes a mootness claim." The Court stated *Ex Parte Young*, 209 U.S. 123, 124 (1908) the fact that when State Public Actors move outside the authority of Law, they are no longer clothed in the Sovereignty of the State.

The attempt of a State officer to enforce an unconstitutional statute is a proceeding without authority of, and does not affect, the State in its sovereign or governmental capacity, and is an illegal act, and the officer is stripped of his official character and is subjected in his person to the consequences of his individual conduct. The State has no power to impart to its officer immunity from responsibility to the supreme authority of the United States.

*Ex Parte Young*, 209 U.S. 123, 124 (1908)

The merits of the Petitioners' private financial losses are a factual reality that accrued as the directed result of the Unconstitutional suppression of his Substantive Liberties by Public Actors moving from within the offices of Michigan's Executive Department, who stepped outside the State's Sovereign Authority when they singularly and collectively moved under the color of their elected and appointed public offices in the Executive Branch, from where said acts overtly Breached the Public Trust by violating the Supreme Law of Land.

The unlawful unwarranted arraignment of the Petitioners by Elizabeth Post moved by standing under the color of Michigan's Judicial Department was invoked by standing illegally the full force of State Authority as unlawfully initiated on July 10th, 2019.

It will take a Judicial Order of the Supreme Court to re-secure Article V, and VI of the United States Constitution for the United States of America to address the Constitutional and Lawful Wrongs moved by Elizabeth Post's actions on July 10th, 2019 to reestablish the Constitutional Constituted Rule of Law regarding the Substantive Rights of this Petitioner, which will address willful violations of Public Law, Elizabeth Post and all her Co-respondents wrongfully perfected under the color law on July 10th, 2019.



## IN SUMMARY

The District Court's decision as affirmed by the Appellate Court's Majority Opinion conflicts with precedential Decisions of the United States Supreme Court, the 9th Circuit Court of Appeals, inclusive of rulings of the Michigan Supreme Court.

The United States Supreme Court states that when State Public Actor violates the authority of their public offices they are moving outside the Sovereign Immunity of the State and its Governance.



## CONCLUSION

Petitioners Thomas Earl Dunn respectfully request the Court to grant this Petition for a Writ of Certiorari.

Respectfully submitted,

THOMAS E. DUNN, SUI JURIS  
*PETITIONER PRO SE*  
425 COTTAGE AVENUE  
CLARE, MI 48617  
(989) 709-8079  
TOMDUN@GMX.COM

AUGUST 12, 2022

**BLANK PAGE**