

FILED

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FEB 17 2022

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

GREGORY EDWIN DUNN,

Plaintiff-Appellant,

v.

COUNTY OF SANTA CRUZ,

Defendant-Appellee.

No. 21-15943

D.C. No. 5:21-cv-02091-BLF
Northern District of California,
San Jose

ORDER

Before: FERNANDEZ, TASHIMA, and FRIEDLAND, Circuit Judges.

Appellant has now paid the docketing and filing fee for this appeal. The motion to proceed in forma pauperis (Docket Entry No. 5) is denied as moot.

Upon a review of the record, the response to the court's July 8, 2021 order, and the opening brief received on August 1, 2021, we conclude that the questions raised in this appeal are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (stating standard). Accordingly, we summarily affirm the district court's judgment.

All other pending motions are denied as moot.

AFFIRMED.

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7 GREGORY EDWIN DUNN,
8 Plaintiff,
9 v.
10 SANTA CRUZ COUNTY,
11 Defendant.

Case No. 21-cv-02091-BLF

JUDGMENT

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14 Plaintiff Gregory Edwin Dunn's first amended complaint having been dismissed without
15 leave to amend and the action having been dismissed with prejudice,
16
17 It is hereby ordered and adjudged that Plaintiff Gregory Edwin Dunn take nothing by this
action and that

18 Judgment is entered for Defendant Santa Cruz County and against Plaintiff Gregory Edwin
19 Dunn.

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21 Dated: May 24, 2021


22

23 BETH LABSON FREEMAN
United States District Judge
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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Form 4. Motion and Affidavit for Permission to Proceed in Forma Pauperis

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form04instructions.pdf>

9th Cir. Case Number(s) **21-15943**

Case Name **Dunn v. County of Santa Cruz**

Affidavit in support of motion: I swear under penalty of perjury that I am financially unable to pay the docket and filing fees for my appeal. I believe my appeal has merit. I swear under penalty of perjury under United States laws that my answers on this form are true and correct. 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Signature 

Date **08/02/2022**

The court may grant a motion to proceed in forma pauperis if you show that you cannot pay the filing fees **and** you have a non-frivolous legal issue on appeal. Please state your issues on appeal. (*attach additional pages if necessary*)

*** See Presented Questions**

2. List your employment history for the past two years, most recent employer first.
 (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross Monthly Pay
DoorDash, Inc.		From <u>≈ 01/10/21</u> To <u>Current</u>	\$ <u>1100</u>
QuickStop (off-the-table under)		From <u>≈ 01/03/21</u> To <u>01/03/21</u>	\$ <u>70 (unpaid)</u>
		From <u> </u> To <u> </u>	\$ <u> </u>
		From <u> </u> To <u> </u>	\$ <u> </u>

3. List your spouse's employment history for the past two years, most recent employer first.
 (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross Monthly Pay
		From <u> </u> To <u> </u>	\$ <u> </u>
		From <u> </u> To <u> </u>	\$ <u> </u>
		From <u> </u> To <u> </u>	\$ <u> </u>
		From <u> </u> To <u> </u>	\$ <u> </u>

Other Assets	Value
Laptop	\$ 350
iPhone	\$ 623
Printer & Misc.	\$ 250

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse	Amount owed to you	Amount owed to your spouse
QuikStop	\$ ≈ 70	\$ [redacted]
	\$ [redacted]	\$ [redacted]
	\$ [redacted]	\$ [redacted]

7. State the persons who rely on you or your spouse for support. If a dependent is a minor, list only the initials and not the full name.

Name	Relationship	Age
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]

	You	Spouse
Installment payments		
- Motor Vehicle	\$ <input type="text"/>	\$ <input type="text"/>
- Credit Card (name) <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
- Department Store (name) <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Alimony, maintenance, and support paid to others	\$ <input type="text"/>	\$ <input type="text"/>
Regular expenses for the operation of business, profession, or farm (attach detailed statement)	\$ <input type="text"/>	\$ <input type="text"/>
Other (specify) <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
TOTAL MONTHLY EXPENSES	\$ <input type="text"/>	\$ <input type="text"/>

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months? Yes No

If Yes, describe on an attached sheet.

10. Have you spent—or will you be spending—any money for expenses or attorney fees in connection with this lawsuit? Yes No

If Yes, how much? \$

11. Provide any other information that will help explain why you cannot pay the docket fees for your appeal.

Indigent

12. State the city and state of your legal residence.

City

State

Your daytime phone number (ex., 415-355-8000)

(323) 218-1624

Your age

Your years of schooling

Currently out of service

No. _____

IN THE

Supreme Court of the United States

GREGORY EDWIN DUNN,

Petitioner,

— v. —

COUNTY OF SANTA CRUZ,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

GREGORY EDWIN DUNN
Counsel of Record
In Pro Se
5351 Monroe St, Apt 3
Los Angeles, CA 90038
(323) 218-4624
contact@gregdunn.la

prevent the Federal government from abridging the Privileges and Immunities of U.S. Citizens?

4. Whether during COVID-19, CAND GO-75 violated 28 U.S.C. § 2072(b), the 14th amendment's Due Process and Equal Protection clauses, the 5th amendment's Equal Protection Guarantee and Due Process clauses of Free Indigent Litigants and Citizens in its deprivation of the fundamental Privilege of Access to the Courts vis-à-vis Pro Se Indigent Prisoners and Free Non-Indigent Litigants and Citizens?
- 4-1 Whether Local Rules and General Orders should fall within the scope of the Rules Enabling Act's Abrogation Clause, 28 U.S.C. § 2072(b)?
- 4-2 Whether CAND Civ-LR 1-5(j) violates Due Process, the 1st amendment Free Speech and Petition clauses, and 28 U.S.C. § 2072(b)?
5. Whether CAND GO-75, PLRA codifications to 28 U.S.C. § 1915, the lack of Summary Judgment Notice for Free Indigent Litigants, and the lower courts' rulings violated the 9th amendment by denying Petitioner's ability to effectively exercise his fundamental liberty to self-representation under the 6th amendment & Privileges and Immunities clause?
6. Whether *Foman Factor 3* should be construed literally for Free Indigent Litigants and Citizens in deciding whether to grant leave to amend?

PARTIES TO THE PROCEEDINGS

Gregory Edwin Dunn is the petitioner here and was plaintiff-appellant below.

The County of Santa Cruz is the respondent here and were defendant-appellees below.

CORPORATE DISCLOSURE STATEMENT

There are no parent corporations or publicly held companies in this case.

LIST OF ALL PROCEEDINGS

Dunn v. Santa Cruz County,

No.: 5:21-cv-02091-BLF, (Pacer: 5:2021cv02091)

(—COMPLAINT, IFP APP, and PROPOSED SUMMONS [ECF 1], filed and entered by Plaintiff-Petitioner on March 25th, 2021;

—SUMMONS ISSUED [ECF 3], on March 25, 2021;

—SETTING INITIAL CASE MANAGEMENT CONFERENCE & ADR [ECF 4], entered by the court on March 25th, 2021;

—FIRST COMPLAINT SCREENING (CS1) GRANTING IFP STATUS [ECF 5], by the court dismissing action with leave to amend entered April 2nd, 2021;

—APPELLATE OPENING BRIEF [ECF 10], entered by Plaintiff on August 1st, 2021;

—RESPONSE TO ORDER TO SHOW CAUSE [ECF 11], filed and entered by Plaintiff on August 9th, 2021;

—DISPOSITIVE MOTION [ECF 12], summarily affirming judgment of District Court filed and entered February 17th, 2022;

—MANDATE [ECF 13], issued on March 11th, 2022).

Dunn v. Yolo County (Related Case)

No.: 2:21-cv-00674-KJM-DB, (Pacer: 2:2021cv00764)

(—COMPLAINT [ECF 1], filed April 15th and entered April 16th, 2021;

—SUMMONS ISSUED [ECF 3], on April 16th, 2021;

—SUMMONS RETURNED EXECUTED [ECF 4], filed on May 10th and entered on May 11th, 2021;

—MOTION FOR PERMISSION FOR ELECTRONIC CASE FILING [ECF 5], entered on May 19th, 2021;

—MOTION TO DISMISS [ECF 10], filed by Yolo County and entered June 1st, 2021;

—NOTICE OF VOLUNTARY DISMISSAL [ECF 12], filed by Plaintiff and entered June 15th, 2021.

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I. THE QUESTIONS PRESENTED INVOLVE THE BALANCE OF POWER BETWEEN THE FEDERAL JUDICIARY AND LEGISLATURE AND FREE INDIGENT CITIZENS' RIGHT TO ACCESS THE COURTS	
A. The Northern District's Decision and Ninth Circuit's Affirmance thereof Flouts this Court's Precedent in <i>Twombly, Monell,</i>	

1. 28 U.S.C. § 1915(e)(2)
2. 28 U.S.C. § 1915(e)(2)(B)(ii)

C. CAND Civ-LR 1-5(j) Deprives Meaningful Access to the Courts in its Promulgation of General Orders that Abridge the Substantive Rights of Free Indigent Litigants and Citizens

1. General Orders in the Northern District, Except in Limited Circumstances, Are Not Under the Purview of the Judicial Council of the Ninth Circuit, Do Not Require Notice, or Provide an Opportunity for Public Comment Prior to Approval
2. CAND GO-75, By Suspending Requirements for Service of Process By U.S. Marshals (USMS) During COVID-19, and Only Tolling Civil Cases Where the Court Had Already Ordered USMS to Serve Process, Removed All Viable-Reasonable Methods for Free Indigent Litigants and Citizens to Effectuate Service of Process in a *Monell* Claim under 42 U.S.C. § 1983

D. The Ninth Circuit, in *Jacobsen v. Filer* Declined to Extend Procedural Protections Afforded to Pro Se Indigent Prisoners Under the *Hudson Rule* to Free Pro Se Indigent Litigants

II. THIS CASE IS AN EXCELLENT VEHICLE FOR THE RECURRING AND IMPORTANT OPEN CONSTITUTIONAL QUESTION AS TO

CASES

Adarand Constructors, Inc. v. Pena,
515 U.S. 200, 213-217, (1995)

Adkins v. E.I. Dupont de Nemours & Co.,
335 U.S. 331, 342-343 (1948)

Akhtar v. Mesa,
698 F.3d 1202, 1212 (9th Cir. 2012)

American Pipe & Const. Co. v. Utah,
414 U.S.

Armstrong v. Rushing,
352 F.2d 836 (9th Cir. 1965)

Ashcroft v. Iqbal,
556 U.S. 662, 678 (2009)

Bell Atl. Corp. v. Twombly,
550 U.S. 544-546, 570 (2007)

Bolling v. Sharpe,
347 U.S. 497 (1954)

Bounds v. Smith,
430 U.S. 817 (1977)

Boykins v. Ambridge Area School District,
621 F.2D 75, 80 (3rd Cir. 1980)

Braverman v. Lachman,
1991 WL 61122

Calhoun v. Stahl,
254 F.3d 845 (9th Cir. 2001)

California Motor Transport Co. v. Trucking Unlimited,
404 U.S. 508 (1972)

Chambers v. Baltimore & O.R. Co.,
207 U.S. 142 (1907)

424 F.2d 854 (D.C. Cir. 1970)

Irizarry v. Secretary, Florida Department of Corrections,
2021 WL 3231163 (11th Cir.)

Jacobsen v. Filler,
790 F.2d 1362 (9th Cir. 1986)

Johnson v. City of Shelby,
U.S. 135 S.Ct. 346

Jones v. Bock,
549 U.S. 199 (2007)

Jones v. Camden City Board of Education,
499 F. App'x (3d.Cir. 2009)

Krainski v. Nevada ex rel. Bd Of Regents Of Nevada Sys. Of Higher Educ.,
616 F.3d 963, 970 (9th Cir. 2010)

Lopez v. Smith,
160 F.3d 567 (9th Cir. 1998)

Lopez v. Smith,
203 F.3d 567, 570, 1122, 1127 (9th Cir. 2000) (en banc)

Lewis v. Casey,
518 U.S. 343 (1996)

Monell v. Department of Social Services,
436 U.S. 658, 690 (1978)

Monroe v. Pape,
356 U.S. 662, 678 (2009)

Mitchell v. Farcass,
112 F.3d 1483 (11th Cir. 1997)

Nietzke v. Williams,
490 U.S. 319 (1989)

Nordlinger v. Hahn,
505 U.S. 1 (1992)

450 U.S. 221 (1981)

Slaughter-House Cases,
83 U.S. 36 (1873)

United States v. Hooton,
693 F.2d 857, 858 (9th Cir. 1982)

United States v. Vaello Madero,
142 S. Ct. 1539 (2022)

U.S. v. Carolene Products Co.,
304 U.S. 144 (1938)

Washington v. Glucksberg,
521 U.S. 702, 721 (1997)

Weinberger v. Wiesenfeld,
420 U.S. 636, 638, n. 2, 95 S.Ct. 1225, 43 L.Ed.2d 514 (1975)

Bell Atl. Corp. v. Twombly,
550 U.S. 544, 570 (2007)

Constien v. United States,
628 F.3d 1207, 1213 (10th Cir. 2010)

Corfield v. Coryell,
6 F. Cas. 546, 550 (No. 3230 C.C.E.D. Pa. 1823)

Dobbs

Foman v. Davis,
371 U.

Jacobsen v. Filer,
790 F.2d 1362 (9th Cir. 1986)

Rodriguez v. San Antonio School District,
411 U.S. 1 (1973)

RULES

CAND Civ. L.R. 1-5(j)

28 U.S.C. § 1915(e)(2)
28 U.S.C. § 1915(e)(2)(B)(i)
28 U.S.C. § 1915(e)(2)(B)(ii)
28 U.S.C. § 1915(g)
28 U.S.C. § 2071
28 U.S.C. § 2072(a)
28 U.S.C. § 2072(b)
28 U.S.C. § 2073
28 U.S.C. § 2074
42 U.S.C. § 1983
42 U.S.C. § 1997(e)(g)

OPINIONS AND ORDERS

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA,
GENERAL ORDER NO. 75 (Adopted March 30, 2020) (Abrogated June 23, 2020)

*—Temporary Suspension of Rules Regarding Personal Service by the United
States Marshals Service During COVID-19 Public Health Emergency*

OTHER

33 Cath. U. L. Rev. 611 (1984) — <i>A Practical Guide to Certiorari</i>
34 Nova Law Review 407 (2010) <i>The Poor as a Suspect Class under the Equal Protection Clause: An Open Constitutional Question</i>

JURISDICTION

On February 17, 2022, the Ninth Circuit issued its opinion affirming the district court's *sua sponte* dismissal without leave and with prejudice on May 24th, 2021. This petition for a writ of certiorari was timely filed on May 18th, 2022. This Court on June 3rd, 2022, finding good faith and correctable deficiencies, allowed an amended petition to be filed due August 2nd, 2022. The United States Northern District of California had original jurisdiction under 28 U.S.C. 1331 and 28 U.S.C. 1343 as Plaintiff's claims brought claims for violations of civil rights pursuant to 42 U.S.C. § 1983. The Court of Appeals for the Ninth Circuit had appellate jurisdiction pursuant to 28 U.S.C. 1291 as it is from final and appealable orders from a district court within the Circuit which the Court of Appeals embraces pursuant to 28 U.S.C. 1294(b). The Jurisdiction in this case is proper under 28 U.S.C. § 1254(1) and under this Court's supervisory power. Because 28 U.S.C. § 2403(a) may apply this case, this petition shall be served on the Solicitor General of the United States. This Court, pursuant to 28 U.S.C. § 2403(a), has not certified to the Attorney General of the United States due the fact that the constitutionality of an Act of Congress has been called into question.

The Ninth Amendment to the United States Constitution provides:

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

The Judicial Oath, 28 U.S.C. § 453 provides:

Each justice or judge of the United States shall take the following oath or affirmation before performing the duties of his office: "I, _____, do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as _____ under the Constitution and laws of the United States. So help me God."

The *in forma pauperis* statute, 28 U.S.C. § 1915 provides:

(a)

(1) Subject to subsection (b), any court of the United States may authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets such prisoner possesses that the person is unable to pay such fees or give security therefor. Such affidavit shall state the nature of the action, defense or appeal and affiant's belief that the person is entitled to redress.

(3) An appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith.

(d) The officers of the court shall issue and serve all process, and perform all duties in such cases. Witnesses shall attend as in other cases, and the same remedies shall be available as are provided for by law in other cases.

(e)

(1) The court may request an attorney to represent any person unable to afford counsel.

(2) Notwithstanding any filing fee, or any portion thereof, that may have been paid, the courts shall dismiss the case at any time if the court determines that-

(2) Any other rule prescribed by a court other than the Supreme Court under subsection (a) shall remain in effect unless modified or abrogated by the Judicial Conference.

(d) Copies of rules prescribed under subsection (a) by a district court shall be furnished to the judicial council, and copies of all rules prescribed by a court other than the Supreme Court under subsection (a) shall be furnished to the Director of the Administrative Office of the United States Courts and made available to the public.

(e) If the prescribing court determines that there is an immediate need for a rule, such court may proceed under this section without public notice and opportunity for comment, but such court shall promptly thereafter afford such notice and opportunity for comment.

(f) No rule may be prescribed by a district court other than under this section.

The Rules Enabling Act, 28 U.S.C. § 2072 provides:

(a) The Supreme Court shall have the power to prescribe general rules of practice and procedure and rules of evidence for cases in the United States district courts (including proceedings before magistrate judges thereof) and courts of appeals.

(b) Such rules shall not abridge, enlarge or modify any substantive right. All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect.

(c) Such rules may define when a ruling of a district court is final for the purposes of appeal under section 1291 of this title.

Litigant and Citizens that are similarly afforded to Prisoners and Free Non-Indigent Litigants.

Additionally at-issue and of great relevant public importance is the what the contours should be for Free Pro Se Indigent Litigants and Citizens' procedural and substantive due process rights during public health emergencies such as COVID-19, and what, if any, the balancing tests in place should be to generally-applied policies of Administrative Agencies to protect the public welfare, and the Court's duty to protect the fundamental liberties of Free Indigent Litigants and Citizens to institute and maintain actions in the courts and to petition the government for redress of grievances.

Lastly, the Ninth Circuit sanctioning the Northern District's stark departure from the accepted and usual course of judicial proceedings and of this Court's precedent, the in-turn Ninth Circuit's affirmance thereof in regard to applicability of *Foman Factors*, are all compelling reasons as to call for an exercise of this Court's supervisory power.

The Right to Access the Courts is a fundamental liberty of the highest order. In the first Slaughter-House case, the particulars of the 14th amendment's Privileges and Immunities Clause was interpreted. Justice Washington, in listing a limited non-exclusive list of "fundamental liberties" afforded to United States Citizens *inter alia* mentions the fundamental liberty to "institute and maintain actions in the courts". While this notion of access dates much further back to the old

(Northern District) against the County of Santa Cruz for pattern and practice of depriving Petitioner of his possessory and property interests in his personal electronics. Specifically, Petitioner alleged the County Probation Department's unconstitutional misuse of Apple's Enterprise Platform via application of Mobile Device Management (MDM), interfered and restricted his use of his personal electronics by making changes to on-device passcodes and putting Petitioner's devices at-risk for destruction of data.

Seeking mainly equitable relief Petitioner on March 25th, 2021, filed case initiating documents in the U.S. District Court for the Northern District of California (Northern District) together with an application to proceed *in forma pauperis* (IFP) due to Petitioner's indigence, sought injunctive relief and recovery for damages against the County of Santa Cruz for the conduct of its Probation Department of which Petition was under the jurisdiction thereof dating back to 2017 being originally imposed in Yolo County.

The Northern District granted IFP status, issued Summons, and subsequently screened the complaint (CS1) pursuant to 28 U.S.C. § 1915(a), dismissing the action with leave to amend, and provided guidance of curable deficiencies to meet the elements of a facially possible § 1983 *Monell* claim. Petitioner corrected multiple deficiencies by attributing the actions from "an unknown third party" to Santa Cruz County's Probation Department in his Amended Complaint (FAC). Petitioner, being uninitiated to the complexity and nuance of substantive law and procedure in Federal court, opted to use the

interest of conserving judicial resources and deterring frivolous prisoner litigation unless or until the claim is facially plausible and potentially meritorious. While CAND GO-75 had no impact in this regard to Waiving Service, whatsoever to Pro

Indigent Prisoners, the same cannot be said for Free Indigent Citizens, who are not bound by such requirement, and in the interest of legal strategy and self-representation, may opt to not waive time under FRCP 4(d).

The latter portion of CAND GO-75 tolled time for service in cases *only* where the court ordered the U.S. Marshal service to serve process, again having no effect whatsoever to Pro Se Indigent Prisoners, as the automatic waiver of time under § 1997e(g) already tolled time for service, giving Pro Se Indigent Prisoners additional time for amendment and to reach the elements of a colorable claim. Free Indigent Litigants and Citizens such as Petitioner, however, did not receive the same procedural comfort afforded to prisoners. Critically more important is the fact that if service of process (SOP) had been ordered by U.S. Marshal, the 90-day time for service was *not* tolled, primarily burdening Free Pro Se Indigent Litigants and Citizens bringing § 1983 *Monell* claims. Apart from the suspension of the statutory and regulatory entitlement of SOP by U.S. Marshal, CAND GO-75 in declining to waive time for all Free Indigent Litigants and Citizens proceeding IFP isn't even an effective means to complete service , as the relevant Federal Rules for service on municipalities does not allow for waivers of time to even be entered against such a defendant (*See* FRCP 4(j)(2)(B)). This placed Petitioner as the mercy of the Court's imposition of a General Order, removed his means to effectively exercise the

in the mail”]& (*Reading*, [finding that Rule 4 does not allow a pro se plaintiff to effectuate service by certified mail himself]).

Undeterred, Petitioner in the interest of maintaining his action despite the barriers due to his indigent status, again sought legal advice from the CAND Pro Se Clinic on the best way to proceed and was not offered any definitive answers other than the generalities of SOP, and as not applied to his case.

Ultimately, through trial and error, Petitioner was able to effect service by use of licensed process server, Direct Legal on May 7th, 2021. Direct Legal would submit the Certificate of Service with the Northern District in the coming weeks, but in the interim, upon discussing the particulars of Petitioner’s *Monell* claim, the CAND Pro Se Clinic gave legal advice that similar incidents where Petitioner’s probation was originally imposed, could subject Yolo County to “Joinder” and “Section 1985”, the conspiracy statute. What ensued was a tangled mess of litigation ultimately leading to filings for motions of consolidation with the Judicial Panel of Multidistrict Litigation (JPML) enjoining Yolo County as a defendant, and a Notice of Potential Tag-Along action for the County of Los Angeles, where interference, and deprivations of possessory and property interests in Petitioner’s personal electronics continued and escalated once Petitioner’s original action in the Northern District against the County of Santa Cruz commenced 6 weeks prior.

On May 24th, the Northern District Screened the First Amended Complaint (FAC) pursuant to 28 U.S.C. § 1915(a), and Dismissed Petitioner’s action with prejudice and without leave to amend for failure to state a claim and futility of

did that led Dunn to believe that his current problems with his iPhone are attributable to Santa Cruz County.”(CS2)]

It should be additionally noted that the court immediately contradicts itself in (CS2) by stating that [“Dunn’s FAC does not cure the defects identified ... [original] screening order” (CS2)] then in its liberally construction of the pleadings under (*Haines*), used new information presented in the FAC that in fact did cure complaint deficiencies.

5. FREE INDIGENT LITIGANTS AND CITIZENS ARE INFRINGED OF THE RIGHT TO ACCESS THE COURTS AND DEPRIVED PROCEDURAL PROTECTIONS AFFORDED TO INDIGENT PRISONERS

6. 28 U.S.C. § 1915 (e)(2)(B)(ii) IS ARBITRARY, NOT NARROWLY-TAILORED OR LEAST RESTRICTIVE, AND UNREASONING TO FREE INDIGENT LITIGANTS AND CITIZENS.

7. THE STANDARD FOR SUA SPONTE DISMISSEALS FOR FAILURE TO STATE A CLAIM IS NOT EQUAL UNDER 28 U.S.C. § 1915(e)(2)(B)(ii).

8. INDIGENT LITIGANTS ARE NOT AFFORDED THE SAME CUSTOMARY PROCEDURAL RIGHT THAT NON-INDIGENT LITIGANTS POSSESS.

8-1 RIGHT TO NEUTRAL AND DETACHED DECISION MAKER:

Non-Indigent Litigants Are Customarily Not Dismissed Sua Sponte Until Responsive Pleadings Have Been Filed.

8-2 ADEQUATE NOTICE

8-3 MEANINGFUL OPPORTUNITY TO BE HEARD

9. THE PRIVILEGES AND IMMUNITIES OF ARTICLE IV, § 2, AND THE 14TH AMENDMENT ONLY PROTECT CITIZENS FROM THE STATE AND NOT THE FEDERAL GOVERNMENT

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be
granted.

Respectfully Submitted,



Gregory Edwin Dunn
Counsel of Record
In Pro Se
5351 Monroe St, Apt 3
Los Angeles, CA 90038
(323) 218-4624
contact@gregdunn.la

Dated this 2nd of August, 2022