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22-7219

NO. \_\_\_\_\_

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IN THE  
SUPREME COURT OF THE UNITED STATES  

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DAWUD C.S. GABRIEL,  
Petitioner,  
v.  
MELTON TRUCK LINES INC.,  
Respondent.

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On Petition for Writ of Certiorari to the  
United States Court of Appeals  
For the Tenth (10th) Circuit  
(Tenth (10th) Cir. Case No. 22-5070)

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*Petition for Writ of Certiorari*

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## **II. PRESENTED QUESTIONS**

1. Whether or not the U.S. Court of Appeals for the Tenth (10th) Circuit far departed from the accepted and usual course of judicial proceedings (S.Ct.R.10(a)), as to call for an exercise of the Court's supervisory authority under 28 U.S.C. § 1254(1)?
2. Whether or not the U.S. Court of Appeals for the Tenth (10th) Circuit sanctioned the far departure of trial court from the accepted and usual course of judicial proceedings (S.Ct.R.10(a)), as to call for an exercise of the Court's supervisory authority under 28 U.S.C. § 1254(1)?

### III. PREFACE

Congress dictates under 28 U.S.C. § 1254(1) that the Court can grant Certiorari upon **any timely filed petition**. Camreta v. Greene, 563 U.S. 692, 131 S. Ct. 2020, 2023, 179 L. Ed. 2d 1118 (2011); Hohn v. U.S., 524 U.S. 236, 241, 118 S. Ct. 1969, 141 L. Ed. 2d 242 (1998); Felker v. Turpin, 518 U.S. 651, 666, 116 S. Ct. 2333, 135 L. Ed. 2d 827 (1996). Within the last year, Gabriel (who is a Federal Whistleblower, that has been denied most of Civil Rights near a decade<sup>1</sup>) has filed four (4) 28 U.S.C. § 1254 petitions, from alleged proceeding that in trials courts (allegedly) and the appeal courts (also, allegedly) that have jurisdiction. Such alleged proceedings have fit the Court's definition for Certiorari to a "T," yet, Gabriel's hard work (while his Paid Counsel Right being denied by the Government<sup>2</sup>) has been used to dissuade him from proceeding in other matters related to employment discrimination, in which the Government has "arranged"

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<sup>1</sup> Where the Government is using Taxpayer's money to ensure Gabriel's life is miserable, where he is disallowed to have a social life, mingle, have a family, all while the Government is remotely inducing pain and remote harassment (**because of their failure to follow the Employment laws and Gabriel's attempt to exercise his Petition Rights to be compensated for Government's failures**). Roberts v. United States Jaycees, 468 US 609, 618, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984); Cruz v. Beto, 405 US 319, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972).

<sup>2</sup> Gabriel has numerous reasons to be believe that the people that Gabriel have contacted for legal counsel are Government imposter (who are screening and wiretapping Gabriel's calls and has been doing so on and off since 2010, evident by "echoes during phone conversion, were is sounds as if someone is tapping into the line right before the "echoes" begin)), making Gabriel go through whole spill (even making inquiries into the matters), just to deny him legal services (to dissuade Gabriel from seeking just compensation from past and present legal matters). U.S. v. Jones, 565 US 400, 132 S. Ct. 945, 954-55, 181 L. Ed. 2d 911 (2012); Katz v. U.S., 389 U.S. 347, 360-61, 88 S.Ct. 507, 19 L.Ed.2d 576 (1967).

employment for Gabriel to be repeatedly discriminated<sup>3</sup> against. Ohralik v. Ohio State Bar Assn., 436 US 447, 470, 98 S. Ct. 1912, 56 L. Ed. 2d 444 (1978); NAACP v. Button, 371 US 415, 440, 83 S. Ct. 328, 9 L. Ed. 2d 405 (1963).

Every single Certiorari Gabriel has filed has been returned as DENIED, without reason for such denial (which violates Gabriel's Constitutional Rights, that no one cares for), and at times, specifically to make him upset (I.e., Two (2) denials for Gabriel v. Melton Truck Lines, Case no. 5008 (10<sup>th</sup> Cir. 2022) & Gabriel v. Melton Truck Lines, Case no. 5008 (10<sup>th</sup> Cir. 2022) that were intentionally issued on October 3, 2022 (Gabriel's birthday) and the December 2022, Certiorari Petition for the matter of Gabriel v. Trans Am Trucking Co., Case no.22-3102 (10<sup>th</sup> Cir.2022) that was filed with eleven (11) Leave Motion related to Page Limitation<sup>4</sup>, for the Petitions that were four (4) pages over the limit, that were sent back for reason of four (4) pages over, with sixty (60) days<sup>5</sup> to correct the

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<sup>3</sup>For example, the Government instructed Waste Connections, Inc. (Gabriel's former) to disconnect the A/C units standardly installed in the certain trucks and then to cut the ceilings to out to fit new A/C units (units that they knew and programmed not to sufficiently cool the trucks) to have Plausible Deniability to remotely heat Gabriel (while targeting his KMC, which his medication for such medical condition makes his body more sensitive to heat). That was also the place of employment Gabriel was using his income to pay for litigation expense for the trial court proceeding of the matter and discriminately terminated.

<sup>4</sup> Meaning Gabriel request the Court to make the decision, instead allegedly one (1) alleged Justice.

<sup>5</sup> Petition were returned to Gabriel in hopes of Gabriel procrastinating to resubmit them, where Gabriel would have so much on his plate in anticipation of a unconstitutional dated December 2, 2022) Civil Action Order (that Gabriel received on around December 15-20, 2022, and (dated January 20, 2023, but service of such unreasonable decree was as untimely processed (January 26, 2023) with a February 3, 2023, deadline to "allegedly respond", unreasonable) Show Order issued in the matter of Gabriel v. Amerikan, Case no. 2:22-cv-765 (M.D.Fla. 2022)).

alleged issue, which Gabriel immediately resubmitted (spending additional funds), just for it to use on February 21, 2023, (just recently) to make Gabriel upset and dissuade him from proceeding in a local matter of Gabriel v. Amerikan, Case no. 2:22-cv-765 (M.D.Fla. 2022), another matter that is allegedly being proceeded over by fictitious ghostwriters claiming to be federal judges and already violating Gabriel's Rights, with Unconstitutional Meddling and an alleged magistrate judge that acting without Expressed Consent)). Gabriel is pretty certain that none of his Certiorari petition have ever made it to the Clerk's office of the U.S. Supreme Court, pretty that will be Gabriel's only argument for this Certiorari Petition (false authorities, presenting themselves as if they are real). For such reason, Gabriel won't waste much time, and set forth one (1) and only one reasonable argument for alleged Certiorari. If the Petition is not allegedly in compliance with the (which it is), do not bother to send a Letter of Non-Compliance for reason Gabriel will not wastefully spend one additional "red cent" on this matter.

Also, as Gabriel is working on this, the Government (who has rooted Gabriel) continues to change the fonts and their size (as well as other issues). Gabriel will not be correcting the Government continual violations of his Constitutional Rights.

## IV. LIST OF THE PARTIES

### A. Petitioner and Respondent

Caption of the case contains the names of all the parties<sup>6</sup>.

### B. Corporate Disclosure Statement

Petitioner is not a nongovernment corporation.

### C. Relevant List of Proceedings

1. On November 16, 2021, Gabriel filed civil action against Melton Truck Lines, Inc. (a employment that the Government directed Gabriel to, so that they could repeated discriminate against him via his Known Medical Conditions (“KMC”) of Attention Deficit Hyperactivity Disorder (“Adhd”) and General Anxiety Disorder (“G.A.D.”) for violations of the Americans with Disabilities Act of 1990 (“ADA”)).
2. On November 16, 2021, a fictitious judge (named “**Chief** Judge John F Heil III (“Chief”)<sup>7</sup>) was assigned to the matter (in violation of Article III of the Constitution).

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<sup>6</sup> The Respondent Melton Truck Lines, Inc. (“Melton”) failed to appear during the lower courts, therefore, is not an active party to this matter.

<sup>7</sup> The Government (who has rooted Gabriel’s computer and has censored information that Gabriel has access to) even has gone so far as to create online profiles and information about the fictitious character (with photos) to dissuade Gabriel from realizing that his matters (that he is using **real money** to pay for filing fee and other litigation expenses) are not real.

3. On August 16, 2022, the fictitious judge assigned the matter arbitrarily and capriciously dismissed the matter, without relying on the evidence (there is no reason for a fictitious judge to follow the law when a fictitious judge cannot be held accountable, and neither will the ghostwriters).
4. On August 17, 2022, Gabriel filed a 28 U.S.C. § 1291 Notice of Appeal to the Tenth (10th) Circuit Court of Appeals<sup>8</sup>.
5. After several alleged extensions (for reason of natural disasters), numerous allegedly denied Leave motion (that were submitted with Just Cause and authorities to back up the Leave request), Gabriel's leave to file an oversize opening brief by an alleged Clerk of Court (that is not supposed to be acting at all for reason of the Rule of Necessity (acting Partially and in prior matters where the claims were of high value) being denied, and the December 12, 2022, Denial to Vacate the Denial of Leave to file Oversized Brief.
6. On December 13, 2022, the Clerk of Court alleged dismissed Gabriel matter for Failure to Prosecute.

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<sup>8</sup> An alleged appeals court that has also issued judgments to Gabriel in the past that are contradictive, discriminative, and Senseless (with ghostwriters as well).

## V. TABLE OF CONTENTS

	<u>Page</u>
I. COVER.....	i
II. PRESENTED QUESTIONS.....	ii
III. PREFACE.....	iii
IV. LIST OF THE PARTIES.....	iv
A. Petitioner and Respondent.....	iv
B. Corporate Disclosure Statement.....	iv
C. Relevant List of Proceedings.....	iv
V. TABLE OF CONTENTS.....	viii
VI. TABLE OF AUTHORITIES.....	xi
VII. CITATION OF UNOFFICIAL REPORTS.....	1
VIII. JURISDICTIONAL STATEMENT.....	1
IX. RELATED AUTHORITIES, PROVISIONS, & RULES.....	2
A. <u>The Constitution of the United States</u> .....	2
B. <u>First (1st) Amendment</u> .....	2
C. <u>Fourth (4<sup>th</sup>) Amendment</u> .....	3
D. <u>Fifth (5th) &amp; Fourteenth (14th) Amendments</u> .....	3
1. <u>Due Process</u> .....	3
2. <u>Article III</u> .....	3

## V. TABLE OF CONTENTS (Continued)

	<u>Page</u>
3. <u>ADA</u> .....	3
4. <u>The Civil Rights Act of 1964</u> .....	4
5. <u>False Authority</u> .....	4
6. <u>Granting of Certiorari</u> .....	5
a. <u>U.S. Supreme Court Rule 10</u> .....	5
b. <u>28 U.S.C. § 2101(c)</u> .....	6
7. <u>Pro Se Standard</u> .....	6
8. <u>28 U.S.C. § 1291</u> .....	vii, 6
9. <u>42 U.S.C. § 2000e-5(e)</u> .....	7
10. <u>42 U.S.C. § 2000e-5(f)(1)</u> .....	7
11. <u>42 U.S.C. § 2000e-5(f)(3)</u> .....	7
12. <u>Filing Restrictions</u> .....	7

## **V. TABLE OF CONTENTS (Continued)**

	<u>Page</u>
VIII. STATEMENTS OF THE CASE.....	8
A. <u>Pro Se Petitioner</u> .....	8
B. <u>Proceedings</u> .....	8
IX. REASON FOR CERTIORARI.....	11
A. Appeal and Trial Court Alleged Proceedings Were Allegedly Presided Over By Fictitious Characters.....	11
X. CONCLUSION.....	12

### **Appendices**

#### **APPENDIX VOLUME I**

December 19, 2022,Tenth (10 <sup>th</sup> ) Cir. COA Judgment, Pg. 1.....	Appendix A
August 16, 2022,U.S. District Court Dismissal Order, Pgs1-15.....	Appendix B
10th Cir. C.O.A. Leave Motion – Page and Word Limitations & TOA (Opening Brief), Pgs. 1-19.....	Appendix C
November 21, 2022, 10th Cir. C.O.A. Denial Order, Pgs.1-2.....	Appendix D
December 5, 2022, Motion to Vacate, Pgs. Pgs. 1-24.....	Appendix E
December 12, 2022, 10th Cir. C.O.A. Order, Pgs.1-2.....	Appendix F

## V. TABLE OF AUTHORITIES

	<u>Page(s)</u>
<b><u>The Constitution of the United States</u></b>	
<u>U.S. Constitution</u> .....	iii, iv, v, vi, viii, 1, 3, 9, 10
<b><u>Constitutional Amendments</u></b>	
<u>First (1st) Amendment</u> .....	viii, 2
<u>Fourth (4th) Amendment</u> .....	viii, 3
<u>Fifth (5th) Amendment</u> .....	viii, 3, 10
<u>Fourteenth (14th) Amendment</u> .....	viii, 3
<b><u>Articles of the Constitution of the United States</u></b>	
<u>Article III</u> .....	vi, viii, 3, 9, 10
<b><u>Constitutional Clauses</u></b>	
<u>Due Process Clause</u> .....	viii, 3
<u>Equal Protection Clause</u> .....	3
<b><u>Congressional Acts</u></b>	
<u>Americans with Disabilities Act of 1990</u> .....	vi, viii, 3
<u>Civil Rights Act of 1964</u> .....	ix, 4, 7
<b><u>United States Code</u></b>	
<u>28 U.S.C. § 1254</u> .....	ii, iii, 1, 5
<u>28 U.S.C. § 1291</u> .....	ix, 6, 9
<u>28 U.S.C. § 1292</u> .....	6
<u>28 U.S.C. § 1295</u> .....	6
<u>28 U.S.C. § 2101</u> .....	ix, 1, 6

**V. TABLE OF AUTHORITIES (Continued)**

	<u>Page(s)</u>
<b><u>United States Code (Continued)</u></b>	
<u>42 U.S.C. § 2000e-5</u> .....	ix, 7, 8
<b><u>Certiorari</u></b>	
<u>Certiorari</u> .....	iii, v, ix, x, 1, 6, 8, 10, 11, 12
<b><u>U.S. Supreme Court Rules</u></b>	
<u>S.Ct.R.10</u> .....	ii, ix, 5, 6

## VI. TABLE OF AUTHORITIES (Continued)

	<u>Page(s)</u>
<b><u>Cases</u></b>	
<u>Alexander v. GardnerDenver Co.,</u> <u>415 U. S. 36,</u> <u>94 S. Ct. 1011,</u> <u>39 L. Ed. 2d 147 (1974)</u> .....	7
<u>Andrews v. Heaton,</u> <u>483 F.3d 1070 (10th Cir. 2007)</u> .....	7, 10
<u>Aramburu v. The Boeing Co.,</u> <u>112 F. 3d 1398 (10th Cir.1997)</u> .....	4
<u>Armstrong v. Mamzo</u> <u>80 US 545,</u> <u>85 S. Ct. 1187,</u> <u>14 L. Ed. 2d 62 (1965)</u> .....	3
<u>Baker v. McCollan,</u> <u>443 US 137,</u> <u>99 S. Ct. 2689,</u> <u>61 L. Ed. 2d 433 (1979)</u> .....	2
<u>Baldwin County Welcome Center v. Brown,</u> <u>466 US 147,</u> <u>104 S. Ct. 1723,</u> <u>80 L. Ed. 2d 196 (1984)</u> .....	7
<u>Biester v. Midwest Health Services, Inc.,</u> <u>77 F. 3d 1264 (10th Cir.1996)</u> .....	4

## VI. TABLE OF AUTHORITIES (Continued)

	<u>Page(s)</u>
<b><u>Cases (continued)</u></b>	
<u>Brown v. Allen,</u> <u>344 US 443,</u> <u>73 S. Ct. 397,</u> <u>97 L. Ed. 469 (1953)</u> .....	5
<u>Bumper v. North Carolina,</u> <u>391 U.S. 543,</u> <u>88 S. Ct. 1788,</u> <u>20 L. Ed. 2d 797 (1968)</u> .....	4, 9, 10, 11
<u>Camreta v. Greene</u> <u>563 US 692,</u> <u>131 S. Ct. 2020,</u> <u>179 L. Ed. 2d 1118 (2011)</u> .....	iii, 5
<u>Cruz v. Beto,</u> <u>405 US 319,</u> <u>92 S. Ct. 1079,</u> <u>31 L. Ed. 2d 263 (1972)</u> .....	iii, 2
<u>EEOC v. CR England, Inc.,</u> <u>644 F. 3d 1028 (10th Cir. 2011)</u> .....	3
<u>Estelle v. Gamble,</u> <u>429 US 97,</u> <u>97 S. Ct. 285,</u> <u>50 L. Ed. 2d 251 (1976)</u> .....	2, 6

## VI. TABLE OF AUTHORITIES (Continued)

	<u>Page(s)</u>
<b>Cases (continued)</b>	
<u>Federal Election Comm'n</u>	
<u>v.</u>	
<u>NRA Political Victory Fund,</u>	
<u>513 US 88,</u>	
<u>115 S. Ct. 537,</u>	
<u>130 L. Ed. 2d 439 (1994)</u> .....	<u>1, 6</u>
<u>Felker v. Turpin,</u>	
<u>518 US 651,</u>	
<u>116 S. Ct. 2333,</u>	
<u>135 L. Ed. 2d 827 (1996)</u> .....	<u>iii, 1, 5</u>
<u>Florida v. Royer,</u>	
<u>460 U.S. 491,</u>	
<u>103 S. Ct. 1319,</u>	
<u>75 L. Ed. 2d 229 (1983)</u> .....	<u>4, 9, 10, 11</u>
<u>Ft. Bend County, Texas v. Davis,</u>	
<u>139 S. Ct. 1843,</u>	
<u>587 US</u> ,	
<u>204 L. Ed. 2d 116 (2019)</u> .....	<u>7</u>
<u>Gabriel v. Amerikan,</u>	
<u>Case no. 2:22-cv-765 (M.D.Fla. 2022)</u> .....	<u>5</u>
<u>Gabriel v. Melton Truck Lines, Inc.,</u>	
<u>Case No. 22-5008(10th Cir.2022)</u> .....	<u>iv, v</u>
<u>Gabriel v. Melton Truck Lines, Inc.,</u>	
<u>Case No. 22-5009 (10th Cir.2022)</u> .....	<u>iv</u>
<u>Gabriel v. Melton Truck Lines, Inc.,</u>	
<u>Case No. 22-5070 (10th Cir.2022)</u> .....	<u>I, 1</u>

## VI. TABLE OF AUTHORITIES (Continued)

	<u>Page(s)</u>
<b><u>Cases (continued)</u></b>	
<u>Gabriel v. Melton Truck Lines, Inc...</u> <u>Case no. 4:21-cv-493 (ND/OK.2022)</u> .....	1, 8, 9
<u>Gabriel v. Melton Truck Lines..</u> <u>EEOC Case no. 564-2021-00731</u> <u>(OK City Area Off. 2021)</u> .....	8
<u>Gabriel v. Trans Am Trucking Co., Inc...</u> <u>Case No. 22-3102 (10th Cir.2022)</u> .....	iv
<u>Goldberg v. Kelly,</u> <u>397 US 254,</u> <u>90 S. Ct. 1011,</u> <u>25 L. Ed. 2d 287 (1970)</u> .....	3, 11
<u>Greene v. First To Serve Inc.</u> <u>Case Nos. 21-1246 &amp; 21-1278 (10th Cir. 2022)</u> .....	7, 10
<u>Haines v. Kerner,</u> <u>404 U.S. 519,</u> <u>92 S.Ct. 594,</u> <u>30 L.Ed.2d 652 (1972)</u> .....	6
<u>Hohn v. United States,</u> <u>524 US 236,</u> <u>118 S. Ct. 1969,</u> <u>141 L. Ed. 2d 242 (1998)</u> .....	iii, 1, 5
<u>Katz v. U.S.,</u> <u>389 U.S. 347,</u> <u>88 S.Ct. 507,</u> <u>19 L.Ed.2d 576 (1967)</u> .....	iii, 3

## VI. TABLE OF AUTHORITIES (Continued)

	<u>Page(s)</u>
<b>Cases (continued)</b>	
<u>Koch v. City of Del City,</u> <u>660 F. 3d 1228 (10th Cir. 2011)</u> .....	6
<u>Lewis v. City of Chicago, Ill.,</u> <u>560 US 205,</u> <u>130 S. Ct. 2191,</u> <u>176 L. Ed. 2d 967 (2010)</u> .....	7
<u>Mathews v. Eldridge,</u> <u>424 US 319,</u> <u>96 S. Ct. 893,</u> <u>47 L. Ed. 2d 18 (1976)</u> .....	3
<u>Mine Workers v. Illinois Bar Assn.,</u> <u>389 US 217,</u> <u>88 S. Ct. 353,</u> <u>19 L. Ed. 2d 426 (1967)</u> .....	5
<u>Missouri v. Jenkins,</u> <u>495 US 33,</u> <u>110 S. Ct. 1651,</u> <u>109 L. Ed. 2d 31 (1990)</u> .....	1, 6
<u>Mobley v. McCormick,</u> <u>40 F. 3d 337 (10th Cir. 1994)</u> .....	6
<u>Morissette v. United States,</u> <u>342 US 246,</u> <u>72 S. Ct. 240,</u> <u>96 L. Ed. 288 (1952)</u> .....	5

## VI. TABLE OF AUTHORITIES (Continued)

	<u>Page(s)</u>
<b><u>Cases (continued)</u></b>	
<u>Morrissey v. Brewer,</u> <u>408 US 471,</u> <u>92 S. Ct. 2593,</u> <u>33 L. Ed. 2d 484 (1972)</u> .....	3, 11
<u>Moya v. Schollenbarger,</u> <u>465 F. 3d 444 (10th Cir. 2006)</u> .....	6
<u>NAACP v. Button,</u> <u>371 US 415,</u> <u>83 S. Ct. 328,</u> <u>9 L. Ed. 2d 405 (1963)</u> .....	iv, 2
<u>National Railroad</u> <u>Passenger Corporation</u> <u>v.</u> <u>Morgan,</u> <u>536 US 101,</u> <u>122 S. Ct. 2061,</u> <u>153 L. Ed. 2d 106 (2002)</u> .....	7
<u>Ohralik v. Ohio State Bar Assn.,</u> <u>436 US 447,</u> <u>98 S. Ct. 1912,</u> <u>56 L. Ed. 2d 444 (1978)</u> .....	vii, 2
<u>O'Melveny &amp; Myers v. FDIC,</u> <u>512 US 79,</u> <u>114 S. Ct. 2048,</u> <u>129 L. Ed. 2d 67 (1994)</u> .....	5

## VI. TABLE OF AUTHORITIES (Continued)

	<u>Page(s)</u>
<b><u>Cases (continued)</u></b>	
<u>Richardson v. Belcher,</u> <u>404 US 78,</u> <u>92 S. Ct. 254,</u> <u>30 L. Ed. 2d 231 (1971)</u> .....	3
<u>Roberts v. United States Jaycees,</u> <u>468 US 609,</u> <u>104 S. Ct. 3244,</u> <u>82 L. Ed. 2d 462 (1984)</u> .....	iii, 2
<u>SEC v. Merrill Scott &amp; Assocs., Ltd.,</u> <u>600 F.3d 1262 (10th Cir.2010)</u> .....	6
<u>U.S. v. Jones,</u> <u>565 US 400,</u> <u>132 S. Ct. 945,</u> <u>181 L. Ed. 2d 911 (2012)</u> .....	iii, 3
<u>US Airways, Inc. v. Barnett,</u> <u>535 US 391,</u> <u>122 S. Ct. 1516,</u> <u>152 L. Ed. 2d 589 (2002)</u> .....	3
<u>Valley Forge Christian College</u> v. <u>Americans United for Separation</u> <u>Of Church and State, Inc.,</u> <u>454 US 464,</u> <u>102 S. Ct. 752,</u> <u>70 L. Ed. 2d 700 (1982)</u> .....	3, 11

## VI. TABLE OF AUTHORITIES (Continued)

	<u>Page(s)</u>
<b><u>Cases (continued)</u></b>	
<u>Warth v. Seldin,</u> <u>422 US 490,</u> <u>95 S. Ct. 2197,</u> <u>45 L. Ed. 2d 343 (1975)</u> .....	3, 11
<u>Yellow Freight System, Inc. v. Donnelly,</u> <u>494 US 820,</u> <u>110 S. Ct. 1566,</u> <u>108 L. Ed. 2d 834 (1990)</u> .....	7
<u>Ysais v. Richardson,</u> <u>603 F.3d 1175 (10th Cir. 2010)</u> .....	7, 10
<u>Zipes v. Trans World Airlines, Inc.,</u> <u>455 US 385,</u> <u>102 S. Ct. 1127,</u> <u>71 L. Ed. 2d 234 (1982)</u> .....	7

## **VII. CITATIONS OF UNOFFICIAL REPORTS**

1. Gabriel v. Melton Truck Lines Inc, Case No. 22-5070 (10th Cir.2022).
2. Gabriel v. Melton Truck Lines, Case No. 4:21-cv-493 (ND/OK.2021).

## **VIII. JURISDICTIONAL STATEMENT**

Gabriel petitions the Court for Writ of Certiorari, to review December 19, 2022, Judgment [Vol.1, App. A] of the Tenth (10th) Cir. Court of Appeals of Failure to Prosecute, and sanctioning District Court's **DISMISSAL WITHOUT PREJUDICE** [Vol. 1 App. B] of this matter. See Vol.1, App. A., Pg. 1, and Vol.1, App. B., Pgs.1-15. The Court has jurisdiction to grant Certiorari, under the Congressional provision of 28 U.S.C. § 1254(1). Hohn v. United States, 524 US 236, 241, 118 S. Ct. 1969, 141 L. Ed. 2d 242 (1998); Felker v. Turpin, 518 US 651, 666, 116 S. Ct. 2333, 135 L. Ed. 2d 827 (1996). This petition is timely filed within the time constraints of 28 U.S.C. § 2101(c). Federal Election Comm'n v. NRA Political Victory Fund, 513 US 88, 90, 115 S. Ct. 537, 130 L. Ed. 2d 439 (1994); Missouri v. Jenkins, 495 US 33, 45, 110 S. Ct. 1651, 109 L. Ed. 2d 31 (1990).

## **IX. RELATED AUTHORITIES, PROVISIONS, & RULES**

### **A. The Constitution of the United States**

The U.S. Constitution is the ultimate decree that limits “[e]very person [or entity] who, under color of any statute, ordinance, regulation, custom, or usage, of [the Federal Government] or any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person [or entity] within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities[.]” Baker v. McCollan, 443 US 137, 140, 99 S. Ct. 2689, 61 L. Ed. 2d 433 (1979); Estelle v. Gamble, 429 US 97, 117 n.1, 97 S. Ct. 285, 50 L. Ed. 2d 251 (1976).

### **B. First (1<sup>st</sup>) Amendment**

“[T]h[e] activities protected by the First Amendment [are] speech, assembly, **petition for the redress of grievances**, and the exercise of religion. Roberts v. United States Jaycees, 468 US 609, 618, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984). [P]ersons...have the right to petition the Government for redress of grievances. Cruz v. Beto, 405 US 319, 321-22, 92 S. Ct. 1079, 31 L. Ed. 2d 263 (1972).

The First Amendment “allegedly” protects an individuals right to paid counsel (except if the litigant is a Federal Whistleblower, in matter in which the Government has no defense<sup>1</sup>). Ohralik v. Ohio State Bar Assn., 436 US 447, 470, 98 S. Ct. 1912, 56 L. Ed. 2d 444 (1978); NAACP v. Button, 371 US 415, 440, 83 S. Ct. 328, 9 L. Ed. 2d 405 (1963).

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<sup>1</sup> This is how Gabriel construes the Paid Counsel Right.

### **C. Fourth Amendment**

"[A] Fourth Amendment search occurs when the government violates a subjective expectation of privacy that society recognizes as reasonable." U.S. v. Jones, 565 US 400, 132 S. Ct. 945, 954-55, 181 L. Ed. 2d 911 (2012); Katz v. U.S., 389 U.S. 347, 360-61, 88 S.Ct. 507, 19 L.Ed.2d 576 (1967).

### **D. Fifth (5<sup>th</sup>) and Fourteenth (14<sup>th</sup>) Amendments**

#### **1. Due Process**

"Procedural due process imposes constraints on governmental decisions which deprive individuals of "liberty" or "property" interests within the meaning of the Due Process Clause of the Fifth [Amendment] and the Equal Protection Clause of the] Fourteenth Amendment." Mathews v. Eldridge, 424 US 319, 332, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Richardson v. Belcher, 404 US 78, 80-81, 92 S. Ct. 254, 30 L. Ed. 2d 231 (1971); Goldberg v. Kelly, 397 US 254, 262-63, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970). "The fundamental requirement of [D]ue [P]rocess is the opportunity to be heard "at a meaningful time and in a meaningful manner." Mathews v. Eldridge, 424 US 319, 332-334, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Armstrong v. Manzo, 80 US 545, 552, 85 S. Ct. 1187, 14 L. Ed. 2d 62 (1965). [T]he decision maker should state the reasons for his determination and indicate the evidence he relied on[.]" Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970).

#### **2. Article III**

"Article III of the [U.S.] Constitution limits the "judicial power" of the United States to the resolution of "cases" and "controversies." Valley Forge Christian College v. Americans United for Separation of Church and State, Inc., 454 US 464, 471 102 S. Ct. 752, 70 L. Ed. 2d 700 (1982); Warth v. Seldin 422 US 490, 498, 95 S. Ct. 2197, 45 L. Ed. 2d 343 (1975).

#### **3. ADA**

"The Americans with Disabilities Act of 1990...prohibits an employer from discriminating against an "individual with a disability" who, with "reasonable accommodation," can perform the essential functions of the job." US Airways, Inc. v. Barnett, 535 US 391, 393, 122 S. Ct. 1516, 152 L. Ed. 2d 589 (2002); EEOC v. CR England, Inc., 644 F. 3d 1028, 1037 (10th Cir. 2011).

#### **4. The Civil Rights Act of 1964**

“[Petitioner] filed this employment action to recover damages and secure equitable relief under Title VII of the Civil Rights Act of 1964[.]” Aramburu v. The Boeing Co., 112 F. 3d 1398, 1401 (10th Cir.1997); Biester v. Midwest Health Services, Inc., 77 F. 3d 1264, 1265 (10th Cir.1996).

#### **5. False Authority**

“[I]t is unquestioned that without a warrant to search Royer's luggage and in the absence of probable cause and exigent circumstances, the validity of the search depended on Royer's purported consent. Neither is it disputed that where the validity of a search rests on consent, the State has the burden of proving that the necessary consent was obtained and that it was freely and voluntarily given, a burden that is not satisfied by showing a mere submission to a claim of lawful authority.” Florida v. Royer, 460 U.S. 491, 497, 103 S. Ct. 1319, 75 L. Ed. 2d 229 (1983); Bumper v. North Carolina, 391 U.S. 543, 548-49, 88 S. Ct. 1788, 20 L. Ed. 2d 797 (1968).

## **6. Granting of Certiorari**

“The relevant statute confers unqualified power on th[e] Court to grant Certiorari “upon the petition of any party.” 28 U.S.C. § 1254(1).” Camreta v. Greene, 563 US 692, 131 S. Ct. 2020, 2023, 179 L. Ed. 2d 1118 (2011); Hohn v. United States, 524 US 236, 241, 118 S. Ct. 1969, 141 L. Ed. 2d 242 (1998); Felker v. Turpin, 518 US 651, 666, 116 S. Ct. 2333, 135 L. Ed. 2d 827 (1996). The Court has granted Certiorari when constitutional questions were raised. Brown v. Allen, 344 US 443, 447, 73 S. Ct. 397, 97 L. Ed. 469 (1953); Morissette v. United States, 342 US 246, 247, 72 S. Ct. 240, 96 L. Ed. 288 (1952). Also, the Court has granted Certiorari when the holding of a US appeals court conflict with a decision(s) of the Court. O'Melveny & Myers v. FDIC, 512 US 79, 87-88, 114 S. Ct. 2048, 129 L. Ed. 2d 67 (1994); Mine Workers v. Illinois Bar Assn., 389 US 217, 219, 88 S. Ct. 353, 19 L. Ed. 2d 426 (1967).

### **a. U.S. Supreme Court Rule 10**

“Review on a writ of certiorari is not a matter of right, but of judicial discretion. A petition for a writ of certiorari will be granted only for compelling reasons. The following, although neither controlling nor fully measuring the Court's discretion, indicate the character of the reasons the Court considers...a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power” S.Ct.R.10.

**b. 28 U.S.C. § 2101(c)**

“A petition for Certiorari in a civil case must be filed within 90 days of the entry of the judgment below. 28 U. S. C. § 2101(c).” Federal Election Comm'n v. NRA Political Victory Fund, 513 US 88, 90, 115 S. Ct. 537, 130 L. Ed. 2d 439 (1994); Missouri v. Jenkins, 495 US 33, 45, 110 S. Ct. 1651, 109 L. Ed. 2d 31 (1990).

**7. Pro Se Standard**

[P]ro se [papers]...we hold to less stringent standards than [papers] drafted by lawyers[.] Haines v. Kerner, 404 U.S. 519, 520-21, 92 S.Ct. 594, 30 L.Ed.2d 652 (1972); Estelle v. Gamble, 429 US 97, 106, 97 S. Ct. 285, 50 L. Ed. 2d 251 (1976). Also, pro se litigant are entitled to liberal construction of court rules. Haines v. Kerner, 404 U.S. 519, 520-21, 92 S.Ct. 594, 30 L.Ed.2d 652 (1972); Estelle v. Gamble, 429 US 97, 106, 97 S. Ct. 285, 50 L. Ed. 2d 251 (1976).

**8. 28 U.S.C. § 1291**

“The courts of appeals (other than the United States Court of Appeals for the Federal Circuit) shall have jurisdiction of appeals from all final decisions of the district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands, except where a direct review may be had in the Supreme Court. The jurisdiction of the United States Court of Appeals for the Federal Circuit shall be limited to the jurisdiction described in sections [28 U.S.C. § ]1292(c) and (d) and [28 U.S.C. § ]1295 of this title.” 28 U.S.C. § 1291; Moya v. Schollenbarger, 465 F. 3d 444, 446 (10th Cir.2006); Mobley v. McCormick, 40 F. 3d 337, 339 (10th Cir.1994); Koch v. City of Del City, 660 F. 3d 1228, 1235 (10th Cir. 2011); SEC v. Merrill Scott & Assocs., Ltd., 600 F.3d 1262, 1270 (10th Cir.2010).

## **9. 42 U.S.C. § 2000e-5(e)**

“[The aggrieved] charges [are] due within 300 days “after the alleged unlawful employment practice occurred.” [42 U.S.C.] § 2000e-5(e)(1).” Lewis v. City of Chicago, Ill., 560 US 205, 130 S. Ct. 2191, 2197, 176 L. Ed. 2d 967 (2010); National Railroad Passenger Corporation v. Morgan, 536 US 101, 109-22, 122 S. Ct. 2061, 153 L. Ed. 2d 106 (2002); Alexander v. GardnerDenver Co., 415 U. S. 36, 47, 94 S. Ct. 1011, 39 L. Ed. 2d 147 (1974).

## **10. 42 U.S.C. § 2000e-5(f)(1)**

“[W]ithin 90 days following [the passing of 180 days after timely filing a Charge of Discrimination with the EEOC], the complainant may commence a civil action against the allegedly offending employer.” [42 U.S.C.] § 2000e-5(f)(1).” Ft. Bend County, Texas v. Davis, 139 S. Ct. 1843, 1847, 587 US \_\_\_, 204 L. Ed. 2d 116 (2019); Baldwin County Welcome Center v. Brown, 466 US 147, 149 104 S. Ct. 1723, 80 L. Ed. 2d 196 (1984).

## **11. 42 U.S.C. § 2000e-5(f)(3)**

“The Civil Rights Act thus contains its own jurisdiction-conferring provision, which reads...“Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of actions brought under this subchapter.” 42 U. S. C. § 2000e-5(f)(3).” Yellow Freight System, Inc. v. Donnelly, 494 US 820, 823, 110 S. Ct. 1566, 108 L. Ed. 2d 834 (1990); Zipes v. Trans World Airlines, Inc., 455 US 385, 393-94 102 S. Ct. 1127, 71 L. Ed. 2d 234 (1982).

## **12. Filing Restrictions**

“Federal courts have the inherent power to regulate the activities of abusive litigants by imposing carefully tailored restrictions under appropriate circumstances.” ...Filing restrictions “are appropriate where the litigant’s lengthy and abusive history is set forth; the court provides guidelines as to what the litigant may do to obtain its permission to file an action; and the litigant receives notice and an opportunity to oppose the court’s order before it is implemented.” Greene v. First To Serve Inc. Case Nos. 21-1246 & 21-1278 (10th Cir. 2022); Ysais v. Richardson, 603 F.3d 1175, 1180-81 (10th Cir. 2010); Andrews v. Heaton. 483 F.3d 1070, 1073-78 (10th Cir. 2007).

## **X. STATEMENTS OF THE CASE<sup>2</sup>**

### **A. Pro Se Petitioner**

1. Gabriel respectfully informs the Court that he is proceeding Pro Se while petitioning for Certiorari.

### **B. Proceedings**

2. During the administrative proceedings of Gabriel v. Melton Truck Lines., EEOC Case no. 564-2021-00731 (OK City Area Off. 2021), Gabriel proceeded pro se.
3. Pursuant to 42 U.S.C § 2000e-5(e)(1), on March 21, 2021, Gabriel timely filed a Charge of Discrimination (“Charge”) with the Government’s Equal Employment Opportunity Commission (“EEOC”).
4. On September 18, 2021, one hundred eighty (180) days had passed since Gabriel timely filed the Charge with the Government and the EEOC failed to investigate the discrimination allegation therein the Charge associate with Gabriel v. Melton Truck Lines., EEOC Case no. 564-2021-00731 (OK City Area Off. 2021) . 42 U.S.C. § 2000e-5(f)(1).
5. Pursuant to 42 U.S.C. § 2000e-5(f)(1) & (3), Gabriel timely filed civil action in U.S. District Court for the Northern District of Oklahoma (ND/OK), in the matter of Gabriel v. Melton Truck Lines., Case no. 4:21-cv-493 (ND/OK. 2021).

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<sup>2</sup> Numbers 3-5 are the basis of jurisdiction for U.S. District Court.

6. In violation of Article III of the Constitution (and at the instruction of the Government), a fictitious judge (alleged named “Chief Judge Heil) was assigned to preside over the matter, in the case of Gabriel v. Melton Truck Lines., Case no. 4:21-cv-493 (ND/OK. 2021). Florida v. Royer, 460 U.S. 491, 497, 103 S. Ct. 1319, 75 L. Ed. 2d 229 (1983); Bumper v. North Carolina, 391 U.S. 543, 548-49, 88 S. Ct. 1788, 20 L. Ed. 2d 797 (1968).
7. On August 16, 2022, the fictitious judge (alleged named “Chief Judge Heil) arbitrarily and capriciously dismissed the matter. Florida v. Royer, 460 U.S. 491, 497, 103 S. Ct. 1319, 75 L. Ed. 2d 229 (1983); Bumper v. North Carolina, 391 U.S. 543, 548-49, 88 S. Ct. 1788, 20 L. Ed. 2d 797 (1968).
8. On August 17, 2022, Gabriel filed a 28 U.S.C. § 1291 Notice of Appeal of Appeal.
9. In violation of Article III of the Constitution (and at the instruction of the Government), more fictitious characters allegedly presided over the appeal. Florida v. Royer, 460 U.S. 491, 497, 103 S. Ct. 1319, 75 L. Ed. 2d 229 (1983); Bumper v. North Carolina, 391 U.S. 543, 548-49, 88 S. Ct. 1788, 20 L. Ed. 2d 797 (1968).

10. On December 19, 2022, Gabriel appeal was unreasonably dismissed by a fictitious character (claiming to be a Clerk of Court) for alleged Failure to Prosecute. Florida v. Royer, 460 U.S. 491, 497, 103 S. Ct. 1319, 75 L. Ed. 2d 229 (1983); Bumper v. North Carolina, 391 U.S. 543, 548-49, 88 S. Ct. 1788, 20 L. Ed. 2d 797 (1968).

11. Gabriel now timely files this Writ of Certiorari Petition.

## XI. REASON FOR CERTIORARI

### A. Appeal and Trial Court Alleged Proceedings Were Allegedly Presided Over By Fictitious Characters.

Gabriel Fifth Amendment Due Process Rights was violated by a violation of Article III of the Constitution that require an official whom the President of the United States has nominated, and Congress has approved to act in the judicial position of U.S. District Judge and U.S. Circuit Judge. Valley Forge Christian College v. Americans United for Separation of Church and State, Inc., 454 US 464, 471 102 S. Ct. 752, 70 L. Ed. 2d 700 (1982); Warth v. Seldin 422 US 490, 498, 95 S. Ct. 2197, 45 L. Ed. 2d 343 (1975). Also, the Fifth Amendment requires an actual Clerk (and not a fictitious person), that is impartial to act in an proceeding, neither of which occurred in during appeals court nor during Court. Florida v. Royer, 460 U.S. 491, 497, 103 S. Ct. 1319, 75 L. Ed. 2d 229 (1983); Bumper v. North Carolina, 391 U.S. 543, 548-49, 88 S. Ct. 1788, 20 L. Ed. 2d 797 (1968). The December 13, 2022, Failure to Prosecute Order<sup>3</sup> and August 16, 2022, Dismissal Order<sup>4</sup> (and all other papers during the proceedings are evidence of such ghostwriters. Florida v. Royer, 460 U.S. 491, 497, 103 S. Ct. 1319, 75 L. Ed. 2d 229 (1983); Bumper v. North Carolina, 391 U.S.

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<sup>3</sup> 10<sup>th</sup> Cir. Court of Appeals cites no authority, evident of a ghostwriters. Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kelly, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970).

<sup>4</sup> District Court's August 16, 2022, Order is just plain senseless, for numerous reasons. One (1) of the senseless act is District Court arbitrarily orders filing restriction on PAST claims not FUTURE claims against Melton. Greene v. First To Serve Inc. Case Nos. 21-1246 & 21-1278 (10th Cir. 2022); Ysais v. Richardson, 603 F.3d 1175,1180-81 (10th Cir. 2010); Andrews v. Heaton. 483 F.3d 1070,1073-78 (10th Cir. 2007).

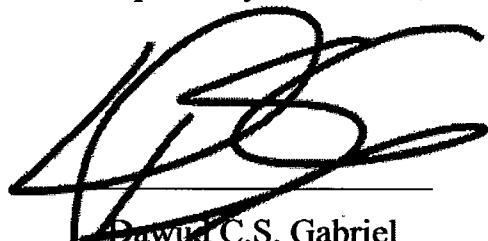
543, 548-49, 88 S. Ct. 1788, 20 L. Ed. 2d 797 (1968). See Vol. A., App. A, Pg.1, See Vol. A., App. B, Pgs.1-15, Vol. A., App. C, Pgs.1-19, Vol. A., App. D, Pgs. 1-2, Vol. A., App. E, Pgs.1 -24, Vol. A., App. F, Pgs.1-2.

## **XII. CONCLUSION**

For the foregoing reasons, Gabriel requests the Court to grant his petition for Writ of Certiorari.

March 18, 2023

Respectfully Submitted,



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