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No. _____

ORIGINAL

Supreme Court, U.S.
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In The
Supreme Court of the United States

BABOUCAR TAAL

Petitioner,

V

**JOHN CRONIN, Commissioner; MICHAEL S ASKENAIZER;
DAVID C. TENCZA; JACK S. WHITE,
Respondents.**

**PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES SUPREME COURT**

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CIVIL RIGHTS; DUE PROCESS, 18 § 242, 18 § 37128 U.S.C. § 455(a) CASE
QUESTIONS PRESENTED

I. Whether the First Circuit's refusal to undertake a de novo review with claims that pro se appellant did not develop his case for them to "review" when appellant unequivocally stated the said bankruptcy judges refusal to Recuse (even with a filed factual-legally supported motion for recusal) from the title 11 protection I sought to protect a family home-wealth. And for NH bankruptcy judge Harwood to only recuse after as he said in open court that "he sees no reason why the defendants cannot now sell his house" that these words constituted a biased against petitioner at a time he failed to rule on filed motion for respondents wanton violations a statutory provision of "automatic stay". Said bankruptcy judge also manipulated the court schedule.

II. Whether the single bankruptcy judge of 1st Cir Bankruptcy Appellate Panel, in spite of literally getting almost all the facts articulated in petitioner's emergency appeal wrong as if she didn't even care to read the motion and as she put "is another motion stay" (Dec 23, indicated her focus wasn't to protect petitioner's right rather legally unfounded comity with fellow bankr judge that said denial & deprivation rights to an Impartial Adjudication of facts in law, provided and protected "Appeal as a Right". And her careless statement that "well they have already sold his house" constitutes "grave abuse of discretion" a violation of constitutional Rights; guarantees, protections. As evidenced when bankr judge(s) cannot function as BAP appellate jurist! Isn't it also for 1st Circuit's Nov 17, 2022 claim I did not address BAP raise issues when I did in "show cause" they called moot and in appeal brief it claimed it didn't review?

III. Whether the bankr judge from Maine brought in after the NH bankr recused finally recuse only "after getting his revenge" on petitioner as he put it and for said ME bankr judge also, said just as he dismissed my title 11 protection case, "that we here know you quite well" is knowing-willful violation of petitioner's Constitutional Right to a free fair impartial adjudication in a U.S.Tribunal provided in the 1st, 5th, 14th Amendment of the these U.S.Constitution, that this Substantive Right is afforded to ALL. That all the violations are inconsistent with this Court's precedent? For the lead 3j panelist of the 1st Circuit Appeal court who refused appellant, the statutory de novo

review in an appeal for wanton deprivation and denial of due process right, sanctioned the theft of property, proceeds from the fraudulent sale of his homestead that was in a Title 11 protection proceeding. Same Circuit court judge is the same that recruited /sanctioned 3-4 lawyers as court appointed(non senate confirm) Bernstein Shur, as if there is recruitment-retainer agreement. The lawfirm has Ovide Lomantagne (recent ex chairman of St Mary's Bank) as a major shareholder-managing partner! The appearance of lack of fairness of process leaves a distinct sense that denial of *de novo* was wanton. Cases about St Mary's and us has been to court thrice, via the 1st Cir and all of it Cir j Lynch & Howard control the case, each time it wasn't granted Certiorari.

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IN THE
SUPREME COURT OF THE UNITED STATES

No. 08-

BABOUCAR TAAL,
Petitioner,

versus,

JOHN CRONIN, Commissioner; MICHAEL S ASKENAIZER;
DAVID C. TENCZA, JACK S. WHITE,
Respondents.

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**PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE 1ST CIRCUIT, 1ST-BAP**

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Mr. Baboucar Taal, pro se petitioner respectfully petitions this Court to review the decision of the United States Court of Appeals for the First Circuit and its created BAP

JURISDICTION AND LOWER COURT OPINION

The opinions of the United States Court of Appeals for the First Circuit is reprinted at Appendix A. The First Circuit opinion issued Nov 17, 2022. Rehearing was denied on Dec 10, 2022. See Appendix B.

Mandates from the 1st Cir and of the 1st Cir BAP were issued on Jan 11 & 12, 2023. See in Appendix A&B.

Decisions by the 1st Cir issued during the pendency of the case at the 1st Cir seeking relief found-provided in these United States Constitution to its citizens/protected class! Jurisdiction is invoked under 28 U.S.C. § 1254 (1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves the First, Fifth & Fourteenth Amendment to the United States Constitution:

The First Amendment to the Constitution:

-the amendment, in part, states-requires that no state shall “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.”.

The Fifth Amendment to the Constitution:

No person shall ... be deprived of life, liberty, or property, without due process of law. The clause in Section One of the Fourteenth Amendment to the United States Constitution provides: ... nor shall any State deprive any person of life, liberty, or property, without due process of law.

The Fourteenth Amendment to the Constitution:

no State shall . . . deprive any person of life [or] liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. U.S. CONST. amend. XIV, § 1;

STATEMENT OF THE CASE

A. The Case - a simple divorce ended in fraud, artifice to defraud, retaliation

PROCEDURAL HISTORY OF & CASE LAW

1. Petitioner's spouse “Guylaine Dubois” filed for dissolution of our 24 year marriage in November of 2019 after trying to sell me some things I couldn't remotely buy into. After the first hearing a subsequent mediator named (atty) Greg Martin was engaged. And despite the contentious nature of divorce, he managed to get us to an agreement

within the 3 months of the filing in which petitioner Dubois agreed to a payment settlement and I would keep the house that I commissioned to be built for yes my black kids as a family home. After the agreement was reached which mediator Martin was able to go back & forth in the two rooms as the attorney Raudonis(way past age of lawyering, nasty and incoherent, lied in open...), for Ms Dubois tried to manipulate the process and frustrated atty Martin, so torpedoed the agreement to get the case to state actor Derby.

2. In the final meeting, it was agreed that they would send me a copy of the “agreement” to review and in my part discuss it with my kids and seek a final review by a lawyer before signing. Atty Raudonis of Welt White Fontaine refused to send me this said copy for my review with every excuse including “I have too many damn emails”. When I contacted atty Martin the very mediator for copy of this agreement prior to our next meeting his answer was telling, and the email he send to WWF almost seem to be begging for this copy while WWF continue to refuse and the next meeting and the next were canceled that send the case back to the court and as it all became clear. WWF fees would exponentially increase from the mere \$3000 and the settlement to where it is now, \$53,000 and as the state actor Derby had allowed them they are able to take it from the share of supposed proceeds of the fraudulent sale of my homestead for state J Derby gave both WWF(Tenza & White) and defendant Cronin et al to not just kept the proceeds of the fraudulent sale of my homestead but to keep charging and that is what the 1st circuit court for the bankr court claims not to want to know contrary to the United States Supreme Court holding in *Wellons v. Hall* 558 U.S. 220 (2010)

3. The final hearing was held on 9/30/20 during which time in the direct examination of Ms Dubois she admitted to a whole array of things that were factually correct to include the down payment of the home being contracted to be built. State j Derby was seen to be dozing off and seemed dazed as if on some medication(and my thinking was hopefully he can and has access to review the facts testified to when making the decision. That was to be the wrong assumption and he then turned everything upside down and that was testified to, falsely claim what even Ms Dubois did not claim.

4. This state actor made statements to the fact that we had an insurance claim for

snow damages, and the false claim according to Ms Dubois that “we” supposedly had 24 cars in 20 years of marriage?, in his Final Degree that were not only prejudicial from statements that Ms Dubois said that had nothing to do with me but the racist inferences state judge Derby could resist and again put it into this final degree. It must be said that during this 9/30/20 trial judge was seen dozing off as if on medication(hopefully legal) He had the audio record to get the facts when at time of writing the “final degree”, he failed that duty to use the facts presented and testified to!

5. When most if not all the cars I had or have I’ve driven them for well over 5+ years and started the process/effort to find out what (is amount) that 55% of my home is and that is again when the scheme and Ms Dubois (being white didn’t-couldn’t appreciate scams and schemes to defraud black people’s homes that every black person have seen including the one Cronin and Derby will played here for money) Cronin keep how do I get paid as the clear intent and motive to scheme with his chosen buyers and side deal of my my building materials worth \$80,000+. That’s fraud and artifice and intent to defraud the very first moment he visited my home, typical Cronin, he’s done it before. As of today respondents and state actor Derby kept petitioner’s s’posed share from the fraudulent sale back in Dec 2021 of \$350,000.

6. Take the Cronin and state j Derby scheme, as the house across the street sold for \$850,000,(6 months earlier, 2021 was the peak for houses outside big cities) he Cronin, Tencza, White & their lawfirm insist that my home is dilapidated (a scam White people have used and continue to since time to scheme black people of their rightful property see Brookings 2022 report, lower the value then scam kicks in, that is fraud) must be allow to give it to the buyers he choose and remember I had in the 2nd floor of the 3 car garage I had build and basement \$80,000 worth of building materials I bought, and that what Cronin came to Derby’s court and sworn that I should Not be allowed to pay my ex, pay off the mortgage and keep my homestead for my kids of my home that has \$850,000 value/equity and all the encumbrances totaled (\$230,000 ‘mortgage’ + \$155,000- \$160,000 ‘to ex’ = \$385,000 - \$390,000. That’s well below 50% LTV and yet in a US Congressionally enacted law in federal proceeding, conflicted CA1 appointed judges refused/deny petitioner to avail himself to a federal provision in wanton “grave

abuse of discretion" and knowingly-wilfully violations of my federal Rights?

7. State j Derby would at one point state an amount to pay her, he caviled for I would have brought a check, this as Cronin in open court state that I should Not be allowed for then he wouldn't get paid along with his friend Bill and their lady friend and for I intended to finished up the 2 bedroom apartment and rent it out as the (business) loan allowed, that the 4 banks and a local business were ready to offer the mortgage to pay off Ms Dubois the mortgage carried by St Mary's Bank who had even considered offering refinancing? Cronin and Derby will continue to play games prompted by WWF, atty Tenza & White making false filing to include when the financing of Cronin et al chosen buyers financing contract fell through 5 times yet Cronin, required by law to open the whole bidding/ buying to all that had shown interest, he Cronin reduced the price of my home, then offered it to his chosen "straw buyers", described throughout the farce as cash buyers as they were looking for mortgage which they were denied repeatedly.

8. Everybody was driving by; judges and lawyers looking at my homestead and forming opinions and ideas as to how much they can make off my homestead including state actor Derby who said "take the million dollars..." so now he is also in real estate, but that is telling in many aspects but using powers of the (nh)state to perfect the fraud is a violation of Equal Protection . As I built my home and made improvements to my home for 23 years and now for the racism and schemes and artifice to defraud acquiesce and sanction by a state actor j Derby in the notion that he can use the court system to retaliate for the sacred bank in St Mary Bank, and bankruptcy j Harwood seeing an opportunity to also get even for his lack of judicial temperament I reported his misconduct to Cir J Lynch! This is antithetical to the Due Process Rights and guarantees

9. And now someone at the 1st Circuit court is saying we don't need to see more evidence consistent with dictate of *Wellons*, and as another bankruptcy j Falcone who replaced j Harwood who finally recused only after he made sure [that a federal Title 11 petitioner request his recusal, he refused, flouted federal statute 28 §455(a) which states Harwood and Falcone must recused, they flouted-ignored a federal statute] he is defrauded me of my homestead! Why did he recuse if he didn't violate federal law/statute and knowingly-wilfully violated my federal rights?

10. And the latter (Falcone) was recruited from the very law firm that St Mary's Bank chairman Lamontagne is a major shareholder, hence his dismissal of my case is a favor and convenient quid pro quo , a clear federal "conflict of interest" violation, by someone whose bankr contract expires in a few years. Without "fear or favor"(to friends/potential employers) the "impartial disinterested tribunal" test both bankruptcy judges failed miserably, with blatant disregard to petitioner's substantive Due Process and federal statute 28§455(a) , which the Circuit refused to enforce in *Taal v. St Mary's* et al for nh Magistrate Jonestone and here as well, why?

11. They clearly, clearly were aware of the laws and statutes, US Supreme court case laws dictates are abundantly clear, yet engaged in "wilful blindness", to wantonly choose to violate my federal due process rights simply because they reside at the 1st Circuit Appeals Court? Appellant would seek protection as state actor Derby, Cronin WWF; Tenza & White and the chosen buyers continued with artifice and [RICO] pattern to defraud and failures by the state highest court failed to guarantee my Equal Protection rights provided and protected in the 14th Amendment of the United States Constitution especially in White majority state like NH for protection property, but here the defrauding came sanctioned from NH courts, its officers and as bankr j Falcone boldly stated; "we know you here..." Now that is, disappeared from the transcribed hearing?

12. Bankr j would engage in harassment and threats to petitioner filings while refusing to grant me access to my homestead provided in the Title 11, again engage in mockery like Derby as I faced obstacles to prosecuting/adjudicating my Title 11 federal protection and this judge enjoying and continue to apologize to these very defendants trying defraud me and my kids home. If they are about all about defrauding, why don't they go defraud their own people, or wait that would lead to criminal prosecution and jail.

13. A circuit judge continue and keep depriving and denying appellant filings what is basic right to cull all evidence to defend one's case e.g. enlarging the record for transcripts of the underlining case, appointment for counsel inlight of, all curiously without a signature. S/he reckons Facts or records aren't needed to continue to deprive and deny Taal his substantive rights. Bankr j Harwwod statement in open court and

Falcone later further evidences these deprivation and denial of Impartial Free Fair process. For he said Harwood he doesn't see why Cronin et al can't go ahead and sell my homestead, in a Title 11 tribunal while refusing to rule repeatedly on violation of the "automatic stay"; Cronin filing at the state court seeking authority from state actor to enable them, Cronin, Tencza, White sanctioning a "walk through" they falsely claim in court they were not aware of prior to selling my home, bankr j Harwood waived their perjury, while an "automatic stay" was in full federal effect. What good is it then one ask?

14. A judge thus doesn't have the power (especially one contracted to follow federal laws and statute yet wantonly flouts and usurp them for reasons other than Justice) to excuse statutory violations of law and right & protection of party provided protected and guaranteed in these United State Constitution as messrs Harwood & Falcone and state actor Derby. Title 11 provision states the conditions that could remotely allow for sale of property during the proceeding; "when a home in underwater, here there is enough equity to pay off the encumbrance; Ms Dubois, mortgage, but clearly I will not pay real estate commission to Cronin and his crony Bill Weiderman, and his lady friends{weasels leches all coming for this black family's home, and in NH it's all legal for the state actor Derby sanctions it and gets his cut. Cronin even claim non existent "immunity" by his unwholly relationship/conspiracy to defraud with state actor Derby, bankr j Harwood said; granted. This is clearly outside the scope of any authority as a judge, state/federal

15. Throughout the case at the Title 11 proceeding, and at the BAP appeal, the single bankr judge designated BAP panelist falsely claimed that I did not contact the clerk of the BAP or that the very title of the appeal to this 1st Circuit Court of Appeal created sub appellate forum, despite the clear facts contradicting her and the very Circuit Court refusing to adjudicate petitioner's "Emergency Injunctive Relief" sought. The ordinary unaffiliate person could suspect these actions seems to resemble how the United States Supreme Court describe the actions of the callous actions 11 Circuit Appeals Court towards constitutional rights and I here say my case depicts wanton violations my due process right, flouting the dictates of *Wellons v Hall*, *Marbury v. Madison*

STATEMENT OF FACTS & MEMORANDUM OF LAW In Support.

16. In addition to Facts Detailed in Petitioner's appeal in 1st Circuit filings in case# 21-9013, filings in NHOB case #21-10611-BAH, BAP case #21-032, case# 22-004(wasn't told).

Petitioner filed Title 11 petition at NH Bankruptcy Court seeking protection to prevent the sale of my home in a divorce that petitioner's ex spouse agreed to a settlement and 5 banks and a private businessperson were ready to provide the refinancing to pay off the current at the time and the (ex) pay off. The state court j Derby then came up with a scheme that he will appoint his partner in a scheme as real estate commissioner to make sure just like what bankr J Falcone would later confirm in his statement and the actions of bankr J Harwood made sure that this Taal is punished for continuing to point the wanton misconduct, knowing-wilful violations of petitioner's federal right, the US Const.

17. And dare to seek justice as provided, protected and guaranteed in the United States Constitution to all without regard. After he was sure that petitioner's homestead was sold in Dec 2021, literally 4 days after, he saw the legal obligation or need to adhere to 28 §455 and remember to respect petitioner's federal rights that the US Constitution guarantees. He reckons who will hold him accountable at the 1st Circuit Court. Bankr J Harwood decided to cede the case to bankr J from Falcone. The facts here are clear and the the US Supreme explains the absolute necessity in a due process context that "under 28 U.S.C. §455 (a) the grounds for recusal must be evaluated on an objective basis, keeping in mind what matters is not the reality of bias or prejudice but its appearance to an objective observer," unaffiliated layman. *Liteky v. U.S.*, 510 U.S. 540, 548 (1994); *Liljeberg*, 486 U.S. at 865; *U.S. v. Snyder*, 235 F.3d 42, 45 (1st Cir. 2000). As "the purpose of 28 U.S.C. § 455(a) is to promote confidence in the judiciary by avoiding even the appearance of impropriety whenever possible. *Liljeberg v. Health Servs. Acquisition Corp.*, 486 U.S. 847, 865-65 (1988)

18. The 1st Circuit Court of Appeals stated "Judges should not recuse themselves lightly however. Id. A trial judge must hear a case unless there is some reasonable factual basis to doubt the impartiality or fairness of the tribunal. *Snyder*, 235 F.3d at 46. "The disqualification decision must reflect not only the need to secure

public confidence through proceedings that appear impartial” *In re Allied-Signal, Inc.*, 891 F.2d 967, 970 (1st Cir. 1989) (emphasis in the original). “However, the duty to sit does not exert equal weight with avoiding the appearance of impropriety. This Circuit went on to state “in a close case, “doubts ordinarily ought to be resolved in favor of recusal.” *Snyder*, 235 F.3d at 46 (re United States, 158 F.3d 26, 30 (1st Cir. 1998)). In *State v. Moquin*, 105 N.H. 9, 11 (1963), the court said, “the duty and responsibility of courts... to protect the judicial process from being brought into disrepute and to act vigorously when confronted with acts or conduct which tend to obstruct or interfere with the due and orderly administration of justice.”

In Pepper v. Litton, 308 U.S. at 304-05. The US Supr. Court said, “in the exercise of its equitable jurisdiction the bankruptcy court has the power to sift the circumstances surrounding any claim to see that **injustice or unfairness** is not done in administration of the bankrupt estate.” Id. at 307-08 Injustice or Unfairness is what was guaranteed by bankr judges Harwood and Falcone with disregard to federal Constitutional Rights guarantee, provision and protection! Here the exercise was to violate petitioner’s federal rights, sanction defrauding as retaliation in a Fed tribunal!

19. “If the factual basis established by the moving party provides what an objective, knowledgeable member of the public would find to be a reasonable basis for doubting a judge’s impartiality, then recusal under 28 U.S.C. § 455(a) is required. *Allied-Signal*, 891 F.2d at 970. So why then did bankr judges Harwood and then Falcone refused to recuse and the later boldly claimed that I am known in their circles and thus his wanton dismissal my seeking federal Title 11 protection as he previously denied my seeking additional debt to pay off the encumbrances after bot Harwood and him conspire to allow for the sale of my home as retaliation along with who ever bankr J Falcone have been discussing the case with, and how to take whatever decisions to deprive, deny and be defrauded, it’s what “they all” want!

20. This very 1st Circuit Court of Appeals stated “on appeal, we review de novo questions of law, including questions of statutory interpretation. See *Gen. Motors Corp. v. Darling's*, 444 F.3d 98, 107 (1st Cir. 2006); see also *Simon v. G.D.*

Searle & Co., 816 F.2d 397, 400 (8th Cir. 1987) ("[W]e review **de novo** the questions of law certified by the district court [under Section 1292(b)]."). The unsigned order from a no name Circuit Judge stated in this order that this **statutory provision** and **mandate does not apply to again cases with the Taal name** for he will **Not** be allowed to have the record that allows for said record supported a full **de novo** review, as it may force the court's hand to side with appellant's Taal, as the claim in the unsigned order said "appellant has not provided adequate justification" meaning that "appeal as a right" is? Justification to "see facts hear fact" the very opposite.

21. To the question whether the acts of denial of the recusal motion and then to say to the persons that defrauded petitioner of his homestead along with state actor Derby and then this bankr j that refused to recuse then recused after the "irreparable damage" he engineered along with his judicial participation [per statement by bankr j Fagone violated the Due Process Clause of the Fourteenth Amendment, violation of Constitutional Equal Protection Rights. The fact based answer is an unequivocal yes. They wantonly violated petitioner's substantive rights, federal statute 28 s455(a). For I questioned their impartiality (favor to colleagues and potential employers as they continued to apologize to the very people that defrauded me, thus failing the test/ requirement of "rendering judgment "without fear or favor", "honest impartial and disinterested" adjudicator" in a [US] tribunal where constitutional rights are guaranteed, and violations of that protection and provision is wanton violation of federal law period.

22. The Supreme Court has held that the mail fraud statute is "limited in scope to the protection of property rights." *McNally v. United States*, 483 U.S. 350, 360 (1987) Further which statute if any did bankr Fagone et al relied upon to dismiss petitioner Taal's case on the very day set aside to hearing testimony &/or see evidence, confirm the plan. Rather bankr j Falcone said "we here know you quite well" [the circuit court judge issued order, means ordering the transcript of the record is a waste of time] for [the case] already decided this case, before getting the brief and or record? To reassert, that "question of law...question of statutory interpretation" is what petitioner brings to the 1st Circuit Court of Appeals for the districts of NH, ME, RI... that I herein seek adjudication prior to presenting my case to the United States Supreme Court

23. "This Court's precedents set forth an objective standard that requires recusal when the likelihood of bias on the part of the judge " 'is too high to be **constitutionally tolerable.**'" *Caperton v. A. T. Massey Coal Co.* , 556 U. S. 868, 872 (2009) (quoting *Withrow v. Larkin* , 421 U. S. 35, 47 (1975)). Applying this standard, the Court concludes that due process compelled the justice's recusal. Bankr j Falcone first acts on the case was to issue a series of orders that position bankr j Harwood refused to rule on as he even reckon evidenced his racial, constitutionally froth and untenability in his staying on the case after the filing of a legally sufficient Motion for Recusal, his order in court that gave the Cronin et al to go ahead and sell my homestead and again the order to even see and review that record this 1st Cir Court issued order dictate "we" the same "we" as bankr j Falcone stated at the dismissal hearing, he doesn't need to hear see facts if it helps petitioner's case.

24. When judges act outside the scope of their authority, base decisions on biased views, or misinterpret the law, it constitutes a grave abuse of discretion requiring also the legally and jurisdictional mandated "de novo review" by the requisite appellate court, here is the First Circuit Court of Appeals for the district. "Showing bias against petitioner's guaranteed protections and provisions, and boldly stating that they discussed the case when asked why he kept apologizing like the prior appointed judge as well to potential employers, he got mad and dismissed the petitioner's case. This also indicates lack of judicial temperament along with the legally canonical mandated requirement to hear evidence/ testimony before an honest, impartial arbiter can render a legally sustainable verdict.

25. The US Supreme court held in *Wellon v. Hall* warns against it because "disrepute" courts must guard against. A judge(s) in a conspiracy is not the court! The 1st Circuit state in *Taal v St Mary's Bank et al* that "Though conspiring with a judge to abridge Constitutional Rights could suffice for state action Brook v. New Hampshire Supreme Court, 80 F.3d 633 (1st Cir 1996) Casa marie, Inc. v. Superior Court of Puerto Rico for Dist. of Arecibo, 988 F. 2d (1st Cir. 1993)" For in NH as in most state a judge must adhere to rule of law, render verdicts in fact-based legally sustainable adjudication,

rather here he chose to pick his friend to defraud petitioner and the case fell right into the law of persons that federal law said they couldn't hear the case federal statute states they Must recuse and mustn't hear the case yet here they reckon person(s) at the 1st Circuit will will back them up for they hired them. The N.H. Const. pt. 1 art 35 " it is a privilege not a right to hold judicial office", permitting judges to "hold their offices so long as they behave well." Federal law for hire (not senate confirm) judges cannot be anyless.

26. In our American courts of law, all and any decision rendered by a lower court [meaning all courts lower than the United States Supreme] has the built- in provision that the party that the decision rendered by the lower court has the [US]constitution provides "appeal as right" In *Wellons v. Hall*, the warden did not hurry up and schedule and execute Marcus, while his rights to seek appellate review weren't exercise or exhausted, Here the appointed bankr j whose conflicts of interest, racial biases, who has a Motion for his Recusal on record, for his lack of judicial temperament that the person that hired him gives him cover rather than remove him for cause, said go ahead for have for he's got enough backing with all the 1st Circuit court judges. Bankr j Harwood violated the United States Constitution provision, protection and guarantees it affords all citizens, Usurp federal statutes and law. His claim that the law is what he says it's, the 1st Circuit Appeals Court will defer.

27. Judicial record is define as "the **record** of official entry of the proceedings in a court of justice or of the official act of a **judicial officer in an action or special**" Does not Taal asking the court so that the clerk of the 1st Circuit act upon the filed transcript request form as federal law, federal court rules and federal statute provide, enough, or due process as the U S Constitution dictates. This appellate court by Refusing to hear or see the complete Record seems to create a "path" to lead to their affirming the wholesale denial and deprivation of a federal substantive right to petitioner here, Why? A federal circuit here is saying we will not do the "review of the base facts of the case or the record of the underlying cases" yet we can still call it "de novo review" and be satisfied with such arbitrariness to actually flout the United States Constitution usurp federal laws and violate federal substantive rights just for they surmise they can.

28. The United States Constitution say I have the right to call all evidences in support, to present to a competent appellate court with requisite jurisdiction, legally constituted and statutorily obligated to hear said "appeal as a right" This order was issued less than 21 days before appellant's brief were due even despite the motions filed over 150 days ago for appointment of counsel and for the expansion of the record well over 45+ days ago. Bankr j Falcone said it "we here know you quite well", "they" will use federal courts to punish Taal for we the majority, as the US Supreme takes tiny amounts of appeals, in outright knowing-wilful violations of petitioner's federal Rights.

29. A reasonable unaffiliated person can rightly surmise that the Circuit court's order to refuse to hear or see no record is no accident for they knew or heard what bankr (appointed) judge Falcone said on that Feb morning, and heard live what is prejudicial racist statement in that record they now don't want to see, but cannot continue to be backstopper to the repeated knowing-wilful-wanton violation of the US constitution and the cover up treasonous to the provisions, protections and guarantees it afford all citizens without regards very much including petitioner here.

"When a party relies upon the [United States]Constitution in order to challenge or sustain the validity of some act of government affecting his legal rights, the court's exercise of the power of judicial review is arguably an inevitable consequence of the fact that a court must deal with all issues which are necessary to a resolution of the case before it." US Supr. Ct Chief Justice Marshall in articulating the federal doctrine of judicial review in *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803)."

30. The remedial discretion under Rule 52(b) was articulated in *United States v. Atkinson*, 297 U.S. 157 (1936). The Court of Appeals should correct a plain forfeited error affecting Substantial Rights if the error "seriously affect[s] the Fairness, Integrity or Public Reputation of Judicial proceedings." see also *Connor v. Finch*, 431 U.S. 407, 421, n. 19 (1977) (civil appeal). An error may "seriously affect the Fairness, Integrity or public reputation of judicial proceedings" independent of the defendant's innocence. Conversely, a plain error affecting substantial

rights does not, without more, satisfy the *Atkinson* standard, for otherwise the discretion afforded by Rule 52(b) would be illusory.

PETITIONER'S CASE ANALYSIS

31. Before the 1st Circuit Court of Appeals was an appeal from the dismissal of petitioner's Federal Title 11 protection afforded to all citizens and at the very time and very case proceeding the(federal) bankruptcy judge Falcone made prejudicial statements in prior orders as his presided over case after the bankruptcy judge for NH waited to Recuse himself only after he Harwood told the respondents that "he doesn't see any reason why they couldn't sell my homestead" (verbatim)

32. The while in a supposed "free, fair, honest impartial adjudication process, federal laws dictates is supposed to take place before a disinterested judge", in a Title 11 protection and this a clear knowing-willful violation of petitioner's federal due process right protected by 1st, 5th & 14 Amendment of the United States Constitution; "**free and fair trial before a disinterested impartial arbiter of facts**". All this Harwood flouted and wantonly violated yes a black man's federal Rights in nh a state in the 1st Circuit Appeals Court? Here NH bankruptcy judge Harwood refused to Recuse and even after I filed a Motion for gis recusal because of repeated apologies to lawyers askenaizer & white respondents in a case Harwood is required by law to recuse himself when his impartiality is rightfully questioned, the United States Supreme dictated that he Must Recused. Harwood flouted federal law, usurped federal statute and in the final hearings before another bankruptcy judge from maine Falcone who gave words to what has been ongoing throughout the case to say that "we here know you quite well done implicating atleast three federal court officer.

33. Before the court is the federal Circuit Appeals provided in law as a Right and it must be noted that Respondents' brief failed to adhere to the FRAP rule, that dictates that for a joint appeal a "Notice" with the Circuit Court must be file, and just as if a petitioner intending to file an Appeal, theirs must be preceded by a timely motion for a joined appeal, they didn't filed. Here they couldn't do a Ulasz or Tencza where they just

have the presiding judge add it in. For here the filing record is followed by e-copy sent to parties. As such if it was any of the US federal Appeals Circuits respondents' brief will be thrown- out as it was never filed for failure to follow FRAP but the 1st Circuit in a case about Taal will continue to ignore flagrant, utter disregard, misconduct to include willful misleading statements to a federal court of law detailed in appellant's brief in a case he was defrauded, his due process rights violated, the "impartial and disinterested tribunal before an honest arbiter of facts" the cornerstone of our judicial process/proceeding yet here it's routinely wantonly usurp and violated because who victim is

34. For example Askenaizer et al in their illegal joint appeals stated in that I didn't file a Notice of Appeal (for the record I filed on both occasions a timely Notices of Appeals, as the 1st person who knows exactly the protection sought, experienced the distinct specific excuse the state of nh highest court employed to deny me this federal Equal Protection provision. In this same page he then referenced my filed Notice of Appeals. I asked is this arrogance or something more sinister as bankr Falcone stated "we here know all about you". Who's "we" Falcone said, how often were the "we" discussing things about the case and further who gave the ok to change/tamper with United States Federal court record that the transcriber of the Feb 4 2022 hearing I paid for took out the pertinent statement and refused to send copy of my paid for transcripts and she lied about it for ever since emails existed there's a record in your sent folder. So why lied about it and who paid or instructed her to violate federal law &/or how high it goes just to violate Taal's Rights to commit federal crimes. Wow!

35. These are trained 'learned' NH licensed attorneys yet this court for whatever reasons continue to entertain encourage flouting of the fed rules against a pro se black petitioner who was defrauded from the start by state actors (as cronin & askenaizer stated in their objection to motion for sanctions that bankr judge Harwood said he will not sanction his friends, and scheduled this hearing for sanctions along with the motion to stay, after he told them he see no reason why they couldn't sell my homestead now). In essence the federal hearing mandated in Title 11 statute was a sham done just for formalities or give cover for whoever will sanction the outright utter violations of federal law of citizen Taal's Substantive Right for he's black in nh before white judges jew &

gentile who evidence indicates wantonly violated federal laws with utter disregard to facts federal laws and federal rights. As Harwood stated in court he see no reason why they can't finished their artifice, take his homestead and keep the money for here in nh state actor Derby started for all things Taal are sanctioned from the top, as bankr j Falcone gave word to! All his appeals in this jurisdiction dies at the 1st Circuit, especially his federal due process Rights. Who cares he's blacks , fraudsters are white court officers at federal court.

36. When petitioner filed motion to expand the record to include the underlying case(s) a single Circuit Court judge denied it. When petitioner sought to retain counsel for this appeal and met with repeated answers as to even as they receive payment upon success of the appeal purely of violation of federal substantive due process rights the (bankr) court will order them to return the retainer I paid. On both these critical issues dealing with petitioner Taal, a single Circuit judge denied them in an unsigned order, reasons bankr judge Falcone told us all in his dismissal of my Title 11 petition. Upon paying for and requesting the very Feb 4 hearing that bankr judge Falcone presided where he made the statement of "fraud on the court", the transcriber of this federal record failed to accurately transcribe and tampered with a United States federal court document at the behest of all the beneficiaries; judges Harwood, Falcone, Askenaizer, Cronin, White, Tencza, their respective law firms state actor. This appeals court is again given Notice that these parties/defendants upon defrauding petitioner of his homestead also kept the proceeds and continue in their conspiracy to churn fraudulent bills and state actor Derby hire by the state of NH issuing orders their combined wishes in "an important ongoing conspiracy to defraud in a pattern of corrupt activities.

37. Further safeguards in well established rules federal procedure are flouted from the beginning for it was fraud from the go, as they engaged Cronin, Derby, White Tencza and their respective lawfirms to steal \$80,000 worth of building materials from petitioner, undersold his home to the chosen buyers (Labretch's) as Cronin & Derby, White , Tencza even as said buyers couldn't afford my home, and the very home across the street 60 Essex Road sold for \$850,000, while my home with bigger lot size almost 3-6 early and when the market was hotter. This happened because as bankr judge

Falcone spilled the beans that they have been discussing my case behind close doors to sanction the defrauding in a Title 11 proceeding with a federal United States Trustee present yet failed to act as statute dictate to protect the estate.

38. All this in an illegal retaliation for I insisting that federal laws rules and statutes be adhere to including two specific federal violations of law by the chief judge where he personally knew had relationship with people in cases the United States Constitution and Supreme Court said he Must (have) Recused, he refuse and when he issued an order that the others in the 3J panel weren't aware of said order nor did I the (supposed) petitioner ask the Circuit in a motion or otherwise. This the chief judge of 1st Circuit Court did as a case at district court in 2nd Circuit Court of Appeals had a case pertaining to Saint Mary's Bank. Finally as per se, appellant's supported statement of facts is found in his briefs, "show cause response/reply" which are incorporated and cross referenced. I implore the court to look at them for what I said. For the continued willful misleading and acts and misconduct to flout and blatantly lied on the record and to now add tampering with federal court record (for both their lack of denial and misdirection to obfuscate, mislead the very Appeals Circuit Court for this district can be found in the illegal joint appeals.

REASONS FOR GRANTING THE WRIT

I. Certiorari is Warranted to Resolve the Conflict Between the Rulings Below and the Decision of this Court in *Marbury v. Madison* and its subsequent case, denial-deprivation of federal rights, provisions and protection means Reversal. The dismissal order at the NH Bankr was issue in court by bankr j Falcone with that clearly prejudicial statement, bankr j Harwood was to have finally recused but he was the one that issued the written as he was listening in the hearing. BOTH KNEW OF STATEMENT FALCONE UTTERED, NOW EXCISED OFF "FEDERAL RECORD", THIS BENEFITS THEM AND OTHERS, A CRIMINAL OFFENSE IN USA tribunal!

II. The Court of Appeals Finding or claims appellant did not develop the case for their review is unsupported by the Facts but more fundamental

and important appellant from be onset and in filing interlocutory appeal stating categorically that he's being denied and deprive of due process by a judge who couldn't hide his animosity. Appellant filed a motion for his recusal he refused to recuse until as he put it, "he sees not reason why the perpetrators of the defrauding perfected it with sale of my homestead already in a Title 11 proceeding supposedly under the protection of the "automatic stay", which was flouted by bankr j Harwood then Falcone, 3j panelist Lynch said I didn't develop my constitutional claim to which I stated the United States Constitution developed it for me in 1st, 5th, 14th Amendment. Evidence to Support These Claims.

A. That I was deprived and denied Impartial Tribunal by a hire adjudicators who federal statute in 28 sect 445 stated they Must Recused, yet they refuse to because they sit in 1st Cir Appeals Crt and added a disparaging remark that "we here know you quite well" puts it in context. A biased judge deprives a citizen Due Process

Critical

questions remain unanswered because of the rulings of the lower courts which are in direct conflict with this Court's precedent.

- 1) Bankr J Falcone "we" does that include Cir Court judges that the order denying the Reconsideration en banc Rehearing**
- 2) As stated the bankruptcy judges all hired by Cir j Lynch have deem my filing for a federal provision for protection of my homestead in statutory Title 11 protection and the same Cir judge deem this minority appellant not entitled to federal substantives a clear and convincing contradiction to this court *In re Allied-Signal, Inc.* holding and a wanton violation of my federal Rights by the hire bankruptcy judges.**
- 3) Does not here 3j Circuit judges failure to even undertake a statutory provision as a de novo review suspect that said panelists are in essence contradict the "without fear or favor" especially when a statement made in court by bankr Falcone which clearly shows his biases and continued to stay on the case after appellant pointed that he violated my substantive due process rights to a free and fair trial in a bankruptcy court, they**

flouted- usurped-violated federal law and statutes and my Rights.

CONCLUSION

I. For the foregoing reasons, the petition for writ of certiorari should be granted. In the alternative, that the court look or directs review of the usefulness of BAP constituting of same colleagues or same bankruptcy judges unwilling to look to facts, law and statute rather favor or refusal to cross each other for the bankr judge from RI stated my appeal she deem it as another motion for reconsideration and she was too busy about christmas or hanukkah to be concerned and a black man and being defrauded, in all event that already occurred anyway. The emergency Motion to the same circuit judge Lynch was equally derided with a similar show cause order when I complaint that the Magistrate judge the chief judge of nh district court allowed to dismiss my case worked for one of the defendant in the very case she dismissed. NH court even federal one are not keen or care about the state 28 sect 455(a) where it states what it means “Must Recuse” but repeatedly flouted, usurped and violated.

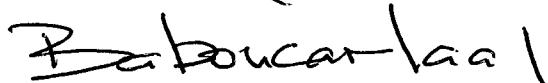
II. Petitioner requests that the Court grant, vacate, and remand his case to the First Circuit with instructions that the claims Due Process where petitioner’s Substantive Rights were wantonly violated by the bankr judges (NH, ME & RI) and the 1st Circuits judge that recruited 3 bank judge should have recused herself in matters that interfered with petitioner due process to safeguard his home from being defrauded provision allowed in Title 11 petition and the 3j panel refusal to adjudicate an appeal where federal statute mandate a de novo deprive petitioner of appellate review was violation appellant’ right where his chance to stop the theft of property was unnecessarily delayed.

III. Petitioner here, appellant at the CA1 before, appellant at the CA1-BAP before, petitioner at the NH-Bankr Court simply tried to saved his home provided in federal statute Title 11 afford to all including member of this body yet because of a qui tam filing against a filing against St Mary’s Bank(notorious for offering NH executives(funny mortgage and quick discharges) affiliations with 2 members of

the 1st Circuits Court, they looped themselves into fraud on the courts, Retaliated against me & family. Where's the Fairness or Equal Justice under the law?

I here seek and urge granting Certiorari to comb through these wanton misconduct!

Submitted by,



Dated: April 5, 2023

Baboucar Taal Petitioner

c/o Box 321, Burlington, VT 054101