22-7694 ORIGINAL

IN THE SUPREME COURT OF THE UNITED STATES

Karl Masek,

Petitioner,

Case No:

Appellate Court No. 22-5257

District Court No. 22-CV-00575

v.

U.S. Attorney Rob Isonta, California
Attorney General Rob Bonta

Respondent.

WRIT OF CERTIORARI TO THE

UNITED STATES COURT OF APPEALS

FOR THE DISTRICT OF COLUMBIA CIRCUIT

PETITION FOR WRIT OF CERTIORARI

KARL MASEK

10 Hudson Street

Annapolis, MD 21401

QUESTIONS PRESENTED

Petitioner contends California defendant officers, and agents engaged in conspiracy cover-up of corruption in promoting themselves, intimidation, stalking, threats, retaliation for prior litigation, mail fraud, and is presently still in danger with these California and Arizona police racketeering gangs engagement in Horrible and Evil acts towards petitioner in the States of California, Minnesota, and Maryland. Petitioner's pain and suffering with extreme difficulties walking due to his double hernia, in which petitioner received surgery after approximately **16** months with the Light House Shelter assistance. In addition, petitioner appointment for surgery with Doctor Saunders at Glenn Burnie Hospital made it impossible for petitioner to litigate **RICO** case where he pursued a Motion to Stay with Court explaining, that petitioner had a surgery scheduled with Doctor Saunders, however, this motion was denied by District Court on May 16th, 2022. In addition petitioner submitted two online complaints with the F.B.I., and U.S. Post Master Dejoy for mail fraud, in which petitioner did not receive his identification card, nor any answer from the online complaints.

Petitioner submitted a general form **In Forma Pauperis** with the Light House Shelter address, which was denied. Petitioner then filed a motion for reconsideration In Forma Pauperis, which was granted by District Court on May 16th 2022. Petitioner also, filed a Motion for dismissal against respondents Minnesota Post Office, and Maryland Social services, which was denied by District Court on May 16th, 2022. Also, on May 27th, 2022, petitioner submitted an amended **Rico** complaint with respondents addresses in summons, however, on July 29th, 2022, the District Court denied petitioners amended **RICO** complaint pursuant to **Federal Rules of Civil Procedure 15**, where the Court makes no mention of **Federal Rules of Civil Procedure 4** in the decision, nor were respondents served with summons, or complaint. In addition petitioner filed a **BIVENS** complaint against F.B.I., Director Christopher Wray. Furthermore, petitioner submitted a writ of mandate and motion to stay, in which petitioners **RICO** and **BIVENS** complaint are intertwined. Lastly, Petitioner did in fact submitted two amended complaints on time dated May 12th and May 27th 2022, and did in fact submit all defendants addresses within summons.

PARTIES

All parties do not appear in the caption of this case on the cover page. A list of all parties to the proceeding in the Court whose judgment is the subject of this petition

is as follows: San Diego Post Master Baldwin, Laguna Beach Post Master Six, and clerk Yolanda, General Post Master DeJoy, Attorney General Javier Becerra, City of Laguna Beach Police officers Ramos, Ferris, McDonald, City of San Diego Police Chief Jerry Sanders, and officers Morales, Pearson, Dectective Wallace, and San Diego City Attorneys Schaffer and Kalinowski, Severson, Lewis, Brisbois, Bisgaard, Smith, and Starr Sinton, Author Cunningham, In Spectre Solutions Inc., County of Riverside deputy Cinnamon Bell and David Bell, Lake Elsinore Fire Dept., Christopher Phillips, County of Los Angeles Sheriff Baca, and Deputy Turpin, City of Glendale Police Dept., Chief Castro, San Diego Port Dist., California D.M.V., County of San Diego Law Library and Three unknown Female Liberians , and unknown Laguna Beach Latina Journalist, and unknown Latina San Diego Deputy Sherriff.

RELATED CASES The issues on writ of Certiorari are:

(1) Petitioner submitted proper In Forma Pauperis pleadings.

(2) District Courts Bias towards petitioners In Forma Pauperis.

(3) Petitioner without any doubt has merit against each defendant in **RICO** action case: **22-CV-00575-UNA.**

(4) Petitioner without any doubt has merit against each defendant in **BIVENS** action case: **22-CV-3574 (RC).**

(5) Petitioners separate complaints of **RICO** and **BIVENS**, was submitted in a writ of mandate by petitioner, and is pending in Appellate Court, where they are intertwined in case **23-5066.**

(6) Petitioners summons in civil **RICO.**

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Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

(1) Petitioner's motion for stay for surgery was denied by District Court on May 16th, 2022.
(2) Petitioner filed a motion for reconsideration **In Forma Pauperis** was granted by District Court on May 16th 2022.
(3) Petitioner on May 12th, and 27th 2022, submitted an amended **Rico** complaint with respondents addresses in summons.
(4) On July 29th, 2022, District Judge denied petitioners amended **Rico** complaint pursuant to **Fed.R.Civ.15**, where the District Court makes no mention of **Fed.R.Civ. 4** in petitioners summons in decision, nor was respondents served with summons, or complaint.
(5) On January 26th, 2023, petitioner filed a **Bivens** complaint against F.B.I., Director Christopher Wray.
(6) On March 21st, 2023 petitioner submitted a writ of mandate and motion to stay, in which petitioners **Rico** and **Bivens** complaint are intertwined in Appellate Court.

SUPREME COURT SUBJECT MATTER JURISDICTION

This Writ of Certiorari is based on prior police defendants, attorney's, judges, and federal agents for conspiracy to cover-up their Horrible acts. Petitioners civil **RICO** and **Bivens** action in which the district court's subject matter jurisdiction

was invoked pursuant to **28 U.S.C. 1331** general federal question jurisdiction, and **18 U.S.C. 1961, et seq**. The remedies are asserted pursuant to **18 U.S.C. 1961**, et seq., and the predicate facts to support that remedy, that respondents engaged in racketeering activities in violation of federal law, are set forth in the operative complaint. The Supreme Court does have jurisdiction pursuant to **28 U.S.C. Section 1254 (1),** on the issue of respondent prior attorney general Javier Becerra, and U.S. Post Master DeJoy.

CONSTITUTIONAL AND STATUTORY PROVISIONS

STATEMENT OF CASE

In approximately March of 2000, two weeks before federal civil rights trial against officers Ray Morales, and Jerrold Pearson for excessive force, San Diego City Attorney Maria Severson did not advise petitioner, that officer Ray Morales was promoted to detective. Also, petitioner became aware after the City of San Diego summary judgement was denied by Honorable Judith Keep, that City Attorney Sim Von Kalinowski and Chief Jerry Sanders resigned shortly afterwards. Moreover, petitioner believes, that both Kalinowski and Sanders engaged in a conspiracy cover-up for officer Ray Morales excessive force, as well as, his priors of excessive force, where Chief Sanders, and City Attorney Kalinowski promoted themselves, as Mayor of San Diego, and San Diego Superior Court Judge. Furthermore, this did in fact have a prejudicial affect in petitioner case against the City of San Diego, because the jury did not have any knowledge of officer Ray Morales two prior of excessive force. Finally, petitioner became aware in Annapolis, Maryland 2022, that Detective Ray Morales became a investigator for the City of San Diego when petitioner returned to California from Vermont in 2019.

In approximately 2006-2008, San Diego Law library engaged in a cover-up by terminating three lawyer Liberians, and replaced by three unknown female paralegals, and security guard. Also, during the new employment, as law Liberians the Director of San Diego County law library enforced the closure of the third floor Federal section where petitioner was unable to do research. Moreover, appellant and Jack Koch was harassed by unknown Black male security guard to disrupt both research and litigation preparation for plaintiff John Gallagher against the San Diego Port, and petitioners **42 U.S.C. Section 1983** claim for excessive force against San Diego Detective Wallace, and Nurse Kavanagh. Furthermore, petitioner became aware by association, that former Liberian Lawyer Michael Kay pursued a civil complaint against the San Diego County Law Library for wrongful termination Lastly, appellant states, that respondent and Jack Koch where sole patrons of the Federal section third floor, where San Diego County Law Library, and San Diego Superior Court Judge Sim Von Kalinowski, and other San Diego Superior Court Judges conspired in a cover-up to deny respondent research by having meetings, and parties once, or twice a week on the Federal section third floor, where ultimately the third floor was closed to all patrons.

Also, approximately in 2005, petitioner was very ill due to food poisoning, and was able to receive medical attention from the Lake Elsinore Fire Fighter Christopher Phillips. Also, during petitioners medical treatment for food poisoning Riverside deputy sheriff Cinnamon Bell arrived at the scene, and observed petitioner being treated by Paramedic Fire Fighter Christopher Phillips for food poisoning, however, Riverside Deputy Bell insisted petitioner be pat-down searched before being taken to the Hospital, in which petitioner asked "why" he was being searched, it was at this time Riverside Deputy Bell became very violent where she used excessive force against petitioner by slamming his face into the asphalt after being apprehended with handcuffs. Shortly, afterword's paramedic Christopher Phillips insisted in transporting appellant to the Hospital for medical treatment for food poisoning, two stiches above his right eye, and deep abrasions on petitioners face.

A criminal complaint was filed in 2005, against petitioner in the Superior Court of Riverside for resisting arrest and trespassing in the Temecula Fire Department where the charges where dismissed due to Riverside Sheriff's department failure to train Deputy Cinnamon Bell, and Courts ruling of illegal search and seizure. Furthermore, in 2005, appellant pursued a 42 U.S.C. Section 1983 complaint against Cinnamon Bell for illegal search and seizure and excessive force. Respondent Bell and newlywed husband Fire Fighter David Bell committed Horrible and Evil acts of moving two houses away from petitioner ex-wife Darlene Scott in Menifee, California, in which respondent attorney Starr Sinton, and respondent attorney Author Cunningham had knowledge of deputy Bells address being two houses away from ex-wife Darlene Scott while petitioners civil trial was pending.

Also, petitioners attorney Starr Sinton, and respondent attorney Author Cunningham engaged in a conspiracy to cover-up fo newly promoted Riverside Fire Engineer Christopher Phillips perjured trial testimony, and the altering of petitioners pictures before trial without petitioner having any knowledge whatsoever. Also, petitioners attorney Star Sinton went to U.C.S.D., photograph classes while petitioners trial was pending, in which respondent attorney Arthur Cunningham had knowledge of. Also, County of Riverside Sherriff's Department did not have a copy of petitioners pictures depicting excessive force, in which the Riverside Sheriff's Department unknown sergeant had taken the original pictures of petitioner. Finally, upon petitioner arrival at Anne Arundel County Public Law Library in February of 2022, petitioner obtained information, that Riverside

Deputy Bells new occupation in fact was a investigator approximately one mile away from petitioner in Dana Point, California, where petitioner did observe deputy Bell, however, petitioner has no knowledge of deputy Bell being a investigator.

In approximately 2010, petitioner assisted litigation in behalf of Doug Du Maurier against the City of Laguna Beach, Chief Sellers, Sergeant Ramos, Officer Rod McDonald, Officer Lee, and officer Ferris in a 42 U.S.C. Section 1983, for excessive force and deliberate indifference. Also, Doug Du Maurier age of 65, fractured arm was held against his will in captivity for three hours in jail before being taken to Laguna Beach Hospital was Horrible acts committed by Sergeant Ramos. Moreover, Los Angeles District Judge Otero made two highly prejudicial decisions in Summary Judgement by the denial of leave to amend, and the miscarriage of justice of Doug Du Mauriers video depicting officer Rod McDonald excessive force.

In approximately 2012, petitioner traveled to the City of Los Angeles for research and preparation of a 42 U.S.C. Section 1983 complaint, in the Los Angeles District Court before Judge Pym for conspiracy claims against former petitioners attorney Starr Sinton, and respondents attorney Author Cunningham's altering petitioners pictures depicting excessive force, and fire Fighter Christopher Phillips perjured trial testimony. Moreover, petitioner submitted for a recusal of Sheri Pym due to the fact of prior experience working with the firm in San Diego, and as U.S. Attorney of the County of Riverside, in which the case arose from, however, the recusal was denied. Furthermore, the Courts decision was based on statute of limitations for excessive force, however, petitioner did not pursue any claims for excessive force against deputy Bell, rather pursued only conspiracy claims against Fire Fighter Phillips and attorneys Sinton, Cunningham, and Firm and in which was cover-up for excessive force made by Riverside Deputy Bell.

In approximately 2012, petitioner pursued to the County of Los Angeles Library located downtown Los Angeles where he was approached by Los Angeles Deputy Sergeant Turpin at the Union station, and was given a citation ticket for not paying his Metro fare, however, petitioner explained, and offered an original Metro receipt with time and date of paid fare, however, this was ignored by Sergeant Turpin. Nevertheless, petitioner was subjected to humiliation, and embarrassment by having his legal documents dumped on the ground at the Union Station. Furthermore, petitioner questioned deputy sergeant Turpin "why", he dumped

appellants legal documents on the ground, when at this time appellant feared for his safety by being approached with a very aggressive K-9 dog, and a unknown female Los Angeles Deputy Sergeant. Lastly, in the Los Angeles Metro Transportation Administration hearing petitioner submitted into evidence the original paid fare metro receipt, but to no avail, in which petitioner then pursued a writ of mandate and 42 U.S.C. Section 1983 complaint, against Sherriff Baca, Deputy Sergeant Turpin, unknown Deputy Sergeant female K-9, and Metro hearing officer.

In approximately 2012, petitioner was given four tickets in violation of Glendale City non-smoking ordinance **8.52.040**, however, appellant was subjected to four illegal pat-down searches once exactly every thirty days by Chief Castro, and his errant officers. Furthermore, shortly after appellant submitted a civil complaint in the Los Angeles Central District Court against the City of Glendale unconstitutional smoking ordinance **8.52.040**, and four illegal pat-down searches, however, while the City of Glendale case was pending petitioner was stalked, and harassed by a unknown detective in an unmarked patrol unit with different unknown Glendale detectives on several occasions. Furthermore, petitioner became aware, that these unknown detectives could possibly commit excessive force, or possibly deadly force towards petitioner where he then returned to San Diego in fear for his life and safety, and sought medical attention at **U.C.S.D.**, and Mira Mesa for emotional distress.

In approximately 2019 through 2020, appellant lost his California identification card where he then pursued a new California identification card in both San Diego, and Laguna Beach Post offices, however, petitioner was subjected to mail fraud, in which he could not obtain his identification card for approximately nine months. Nevertheless, appellant became frustrated, and very ill with not able to have his California identification card mailed to him, in which appellant traveled by Greyhound with a temporary California I.D., to the States of Minnesota and Maryland in a attempt to get medical treatment for his double hernia. Respondents carried out there evil acts of government mail fraud towards appellant, which caused great pain, and suffering for two years. In addition, petitionrer submitted a online Post Office complaint against San Diego Post Master, and Laguna Beach Post Master, however, petitioners Gmail received no decision by General Post Master Dejoy. Lastly, appellant submitted a F.B.I., online complaint against San Diego and Laguna Beach Post offices, however, appellants received no reply, or decision in his Gmail. Lastly, appellant believes, that in 2010, Doug Maurier

continually had his legal mail withheld on several occasions by the same Laguna Beach Post Office Clerk Yolanda, which is exactly what occurred with petitioner California identification card.

Moreover, prior defendant-respondents California entities, California police agencies, California investigators, California attorneys, United States Post Office agencies, F.B.I., agents, police family members, associates, and petitioner families have continually stalked, and made verbal threats towards petitioner in their off-duty, and on-duty patrol vehicles when passing appellant to present day. Petitioner, also believes, that these same particular Evil Rico and Bivens police respondents located themselves in Houses, Apartments, and Hotels near petitioner from 2010 to present day in Annapolis, Maryland. Furthermore, petitioner has observed these Evil prior respondents-investigators George Ramos, Ray Morales, and Cinnamon Bell's in their personal, and on-duty patrol vehicles, where petitioner had taken photographs, and videos of respondents, and petitioner family members vehicles for the past 3 years. Also, respondents F.B.I., Director Wray, California Attorney Bonta, and U.S. Attorney Garland failed to investigate, or reply to petitioners online complaints. Furthermore, F.B.I., Director Wray received a on-line complaint from petitioner approximately two years ago in Riverdale, MD and done nothing about the stalking, or the continuous stalking, and harassment to this present day in Annapolis, MD. Finally, petitioner observed these same gang member police families destroyed the wealthy towns with drugs, and crime in Laguna Beach, Dana Point, and Rancho Bernardo, California.

REASONS FOR GRANTING WRIT OF CERTIORARI

D.C. Circuit's Mandate

When remanding an action for further proceedings, a federal circuit court generally includes, along with any written opinion, a mandate directing the district court to take certain action. See **Black's Law Dictionary 980 (8th ed.2004)** defining mandate as an order from an appellate court directing a lower court to take a specified action. No principle of law is better established than the rule that a District Court is bound by the decree of the Court of Appeals and must carry it into execution, according to the mandate. **Consarc Corp. v. Dep't of Treasury, 71 F.3d 909, 915 (D.C.Cir.1995),** Also, see **Mays v. Burgess, 152 F.2d 123, 124 (D.C.Cir.1945); Role Models Am., Inc. v. Geren, 514 F.3d 1308, 1311 (D.C.Cir.2008),** holding that district court on remand has no power or authority to deviate from the mandate; See **Briggs v. Pa. R.R. Co., 334 U.S. 304, 306, 68 S.Ct.**

1039, 92 L.Ed. 1403 (1948). This general principle known as the mandate rule is a more powerful version of the law of the-case doctrine, which prevents courts from reconsidering issues that have already been decided in the same case. **Indep. Petroleum Ass'n of Am. v. Babbitt, 235 F.3d 588, 597 (D.C.Cir.2001).**

Plain Language of the Mandate

Where the text of a mandate is clear, the district court is without authority to act contrary to those instructions. **Role Models, 514 F.3d at 1311**; see also **United States v. White, 751 F.Supp.2d 173, 174–75 (D.D.C.2010)** A district court is without authority to take any action that is inconsistent with an appellate court's mandate. Also, See **Role Models, 514 F.3d at 1311**, affirming lower court's decision to hold partial retrial because mandate made clear that we were remanding only for the re-screening of other interested parties; **New York v. Microsoft Corp., 224 F.Supp.2d 76, 86 (D.D.C.2002),** holding limited retrial on remedies based on court of appeals instructions to hold a remedies-specific evidentiary hearing, and to fashion an appropriate remedy; See **United States v. Microsoft Corp., 253 F.3d 34, 103, 105 (D.C.Cir.2001).** In other words, petitioner was in fact prejudiced with prior excessive force trials, and is being harassed, threats, and stalked in a attempt to interfere and derail his current litigation in his **Rico**, and **Bivens** complaint, and **Writ of Mandate** at this present time.

Mandate and the Opinion Together

When a district court is considering proceedings on remand, a circuit court's opinion may be consulted to ascertain what was intended by its mandate. **In re Sanford Fork & Tool Co., 160 U.S. 247, 256, 16 S.Ct. 291 (1895);** see Sherwin, 319 F.2d at 731; The nature and extent of proceedings on remand should be determined by the district court according to the circumstances of each case, in light of any instructions in our mandate; **Pahuta v. Massey–Ferguson, Inc., 60 F.Supp.2d 74, 76 (W.D.N.Y.1999),** Petitioner also argues that the Circuit Court never considered any prejudicial effects on the prior jury's determination of issues of facts never heard before them, nor did the lower Court consider petitioners summons pursuant to **Fed.R.Civ.Proc. 4**, in which respondents never answered Rico complaint, or appellants opening brief.

The Court need not linger long on this matter. The fact that language from the Circuit Court's opinion at times indicates that a partial retrial is required and at other times suggests that a full retrial is necessary is the best available evidence that the opinion like the mandate does not unequivocally dictate a particular scope

for retrial. On remand, the job of the Court is to scrupulously avoid implementing the mandate in a manner that exceeds, or limits, the appellate decision. See **Tex. Oil & Gas Corp. v. Hodel, 654 F.Supp. 319, 323 (D.D.C.1987).** In this instance, where the mandate and opinion do not provide an unmistakable direction for further proceedings, the Court will not finely parse the applicable language to fashion a clear appellate instruction that the Circuit Court did not see fit to articulate itself.

Partial Retrial is Inappropriate

Having found no evidence in the Circuit Court's mandate that the Court must proceed in any particular manner, the Court now turns to whether it should limit the scope of a new trial. A district court's authority to structure a retrial, codified in **Federal Rule of Civil Procedure 59** and **60**, turns on two key questions: First, are the issues to be retried sufficiently distinct from resolved issues so that only those issues may be presented to a jury without causing undue confusion or prejudice. Second, did the error-necessitating retrial affect the earlier determinations on issues that might otherwise be treated as resolved. The former inquiry rests principally on a party's right to a full and fair hearing of the issues. And to protect this right, the power to grant a partial new trial may not properly be resorted to unless it clearly appears that the issue to be retried is so distinct and separable from the others that a trial of it alone may be had without injustice. **Camalier & Buckley Madison, Inc. v. Madison Hotel, Inc., 513 F.2d 407, 421 (D.C.Cir.1975);** Also, see **Gasoline Prods., 283 U.S. at 500, 51 S.Ct. 513**. For the reasons set forth below, the petitioners finds that some issues cannot be adequately segregated, and that in all respect to errors identified by the Circuit Court decision in earlier proceedings to a degree required a full retrial of all relevant factual issues. Furthermore, Attorney General Bonta was served with **RICO** complaint, and Appellant-Petitioners opening brief, however, Attorney General Bonta failed to answer, as well as, Bonta's no answer to petitioners writ of mandate.

Separation of Issues

The first inquiry is whether the issue that all parties agree must be retried whether respondents joined an overarching conspiracy to rig the bidding process can be separated in an equitable manner from questions of **(1),** whether a conspiracy existed and **(2),** what damages were suffered as a result of the bid rigging. The key factor, in making this evaluation, is whether the question of joining a conspiracy is so interwoven with the other questions that the former cannot be submitted to the

jury independently of the latter without confusion and uncertainty; Camalier, 513 F.2d at 421; See **Gasoline Prods., 283 U.S. at 500, 51 S.Ct. 513**); see also **Williams v. Rene, 72 F.3d 1096, 1101 (3d Cir.1995**); holding that when one issue is so intertwined with another that one cannot be submitted to the jury independently of the other without confusion and uncertainty, then a new trial must extend to all issues. Indeed, petitioner contends, that F.B.I.. Director Wray, Attorney General Bonta, and Gardner have knowledge of prior defendants, as well as prior Attorney General Javier Becerra where these same mob police continue to stalk, threaten, and harass, which resulting in retaliation and interference with petitioners litigation at this present time. Also, petitioner argues, that California F.B.I., agents failed to anything pertaining to his F.B.I., online complaint of mail fraud, or out of State stalking, and General Post Master Dejoy failed to investigate petitioners U.S. mail online complaint for mail fraud.

Overarching Conspiracy

Can a new jury be asked to determine whether defendants joined a conspiracy without considering the nature, extent or existence of that illegal enterprise? The Court does not see how it can. As an initial matter, to establish a civil conspiracy, a jury must find, inter alia, an agreement between two or more persons. See **Second Amendment Found. v. U.S. Conf. of Mayors, 274 F.3d 521, 524 (D.C.Cir.2001).** But this inquiry is no different than the underlying question of whether a particular defendant joined a conspiracy, which also requires a finding that each defendant entered an agreement. Indeed, the first jury was instructed that it could find that a particular defendant willfully became a member of the conspiracy relying on evidence allowing it to infer an intent to participate in an unlawful enterprise. Moreover, a fundamental aspect of determining whether an entity joined a conspiracy is an understanding of the nature and scope of that conspiracy, which the fact-finder must define. See **United States v. Booze, 108 F.3d 378, 382 (D.C.Cir.1997),** To determine the scope of the conspiratorial agreement entered into by a defendant, the district court must spell out specific findings about the individual defendants and their relation to the conspiracy. And finally, even if the Court were able to fashion a way around these obstacles, an instruction barring defendants from challenging the existence of a conspiracy might have an undue influence on the jury's determination of whether these defendants participated in such an enterprise; indeed, an entire line of cases in the D.C. Circuit concerns the ease with which evidence concerning the existence of, and participation in, a conspiracy is readily transferrable; See **United States v.**

Gatling, **96 F.3d 1511, 1519–20 (D.C.Cir.1996).** Put simply, this is an instance where the jury will need a thorough knowledge of the underlying conspiracy one that cannot be properly disassociated from the question of whether these defendants joined that conspiracy. Furthermore, for approximately three years F.B.I., Director Wray and U.S. Attorney General Gardner had knowledge of petitioners **RICO** complaint, as well as petitioners F.B.I. online complaints filed against San Diego and Laguna Beach post offices, and prior defendants-respondents out of State stalking in the States Minnesota and Maryland.

In **Brady**, this Court held that the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution; **373 U.S., at 87, 83 S.Ct. 1194**. We have since held that the duty to disclose such evidence is applicable even though there has been no request by the accused, **United States v. Agurs, 427 U.S. 97, 107, 96 S.Ct. 2392, 49 L.Ed.2d 342 (1976)**, and that the duty encompasses impeachment evidence as well as exculpatory evidence, **United States v. Bagley, 473 U.S. 667, 676, 105 S.Ct. 3375, 87 L.Ed.2d 481 (1985)**. Such evidence is material if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different. **Id., at 682, 105 S.Ct. 3375**; see also **Kyles v. Whitley, 514 U.S. 419, 433–434, 115 S.Ct. 1555 (1995)**. Moreover, the rule encompasses evidence known only to police investigators and not to the prosecutor. **Id., at 438, 115 S.Ct. 1555**. In order to comply with Brady, therefore, the individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government's behalf in this case, including the police; **Kyles, 514 U.S., at 437, 115 S.Ct. 1555**. Indeed, U.S. Attorney General Garland must have knowledge of petitioners F.B.I., online complaints, and F.B.I., Director Wray has a duty to inform him. Petitioner contends, that he was prejudiced in **RICO** complaint, as well as the **BIVENS** complaint due to no investigation to petitioners F.B.I., online complaints, or out of State stalking, verbal threats, and continuing harassment of petitioner.

These cases, together with earlier cases condemning the knowing use of perjured testimony illustrate the special role played by the American prosecutor in the search for truth in criminal trials. Within the federal system, for example, we have said that the United States Attorney is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a

criminal prosecution is not that it shall win a case, but that justice shall be done. **Berger v. United States, 295 U.S. 78, 88, 55 S.Ct. 629, 79 L.Ed. 1314 (1935).** Indeed, petitioner sent opening brief by proof of service to California Attorney General Rob Bonta in Sacramento, CA, however, there was no reply by respondent Bonta. Furthermore, Attorney General Bonta has duty to investigate and represent these prior defendants, which are presently out of State stalking in Maryland. Furthermore, defendant-respondent prior Attorney General Javier Becerra is in the Capital, where surely Attorney General Bonta does have knowledge of these facts.

42 U.S.C. SECTION 1985 (2) RETALIATORY CONSPIRACY

In **Moore v. Castro 192 F.Supp.3d 18, 36 (2016),** The Court held that the first clause of **§ 1985(2)** prohibits conspiracies to interfere with the integrity of the federal judicial system; See **McCord v. Bailey, 636 F.2d 606, 614 (D.C.Cir.1980)**. To state a claim under this provision of **§ 1985 (2),** a plaintiff must allege **(1)** a conspiracy between two or more persons, **(2)** to deter a party, witness or juror from attending or testifying in any matter pending in any court of the United States, which **(3)** results in injury to the plaintiff. **Graves v. United States, 961 F.Supp. 314, 319 (D.D.C.1997).**

Also, different Circuits has interpreted this section as providing a remedy for a plaintiffs who has been retaliated against for having instituted a prior lawsuit. See **Irizarry v. Quiros, 722 F.2d 869, 871 (1st Cir.1983).** See also **Wright v. No Skiter Inc., 774 F.2d 422, 426 (10th Cir.1985).** Furthermore, because the Supreme Court has held that class-based discrimination is not a necessary element of a section **1985(2)** claim. See **Kush v. Rutledge, 460 U.S. at 721, 103 S.Ct. 1483**. Indeed, petitioner without any doubt still has merit against prior police defendants-respondents, as well as attorneys and Judges. Also, family members engaged in a conspiracy to retaliate against petitioner by out of State stalking, threats, and harassment for exercising his legal rights in the Federal Court System.

RESPONDENT CIVIL RICO CLAIMS IN FACT HAVE MERIT, AND COURTS DISMISSAL OF CIVIL RICO CLAIMS WAS ERRONEOUS

RICO GENERALLY

In its most general application, **RICO** creates civil damages and equitable remedies, with provisions for both compensatory damages, that are to be trebled, and punitive damages, upon proof that a member of an enterprise, such as a police department, engaged in certain, generic state or specifically enumerated federal

criminal conduct on at least two occasions in the preceding 10 years, and that the conduct has caused the plaintiff to suffer economic harm to her business or property, including lost employment, wages, or professional opportunities. Additionally, as with **42 U.S.C. § 1988**, which provides for an award of attorneys fees to prevailing plaintiffs in actions brought under **42 U.S.C. § 1983, RICO** makes the same provision for an award of attorneys fees to prevailing plaintiffs.

As held by the Supreme Court in a **RICO, 18 U.S.C. §§ 1961-1968 (1994 ed. and Supp. III),** makes it criminal to conduct an enterprise's affairs through a pattern of racketeering activity, **18 U.S.C. § 1962(c),** defined as behavior that violates certain other laws, either enumerated federal statutes or state laws addressing specified topics and bearing specified penalties, **18 U.S.C. § 1961(1)(Supp. III).** Pattern is also a defined term requiring at least two acts of racketeering activity the last of which occurred within ten years after the commission of a prior act of racketeering activity; **18 U.S.C. § 1961(5), RICO** provides for civil actions by which any person injured in his business or property' by a **RICO** violation may seek treble damages and attorney's fees. **18 U.S.C. § 1964, (c)** ; **Rotella v. Wood, 528 U.S. 549, 552 (2000).** Appellant contends, that he is inclined in law, and has represented himself, and other plaintiff's cases. Furthermore, appellant has defeated City attorneys, private lawyers, Attorney Generals in the past, as well as reversals in lower Courts, which entitles appellant to treble damages and attorney fees.

RICO provides, in pertinent part, that: It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity. **18 U.S.C. § 1962(c). RICO** also makes it unlawful for any person to conspire to violate any provision of this subsection. **Id. § 1962(d)**. The Racketeer Influenced and Corrupt Organizations Act, **18 U.S.C. §§ 1961-1968**, creates a civil cause of action for any person injured in his business or property by reason of a violation of section **1962; 18 U.S.C. § 1964(c)**, in turn provides that it shall be unlawful for any person to conspire to violate any of the provisions of subsection **(a), (b), or (c)** of **§1962**; **Beck, 529 U.S. at 495**. Also, **RICO** defines the term enterprise to include any association and any group of individuals associated in fact although not a legal entity; **18 U.S.C. § 1961(4).** The Supreme Court has held that a group of individuals associated in fact for wholly unlawful ends could constitute an enterprise for purposes of **RICO**, and that establishing the

existence of an associated-in-fact enterprise requires proof only of an ongoing organization, formal or informal, and that the various associates function as a continuing unit. See **United States v. Turkette, 452 U.S. 576, 580 & 583 (1981).** Indeed, appellant argues, that prior enterprises, prior defendants, and associates undoubtedly continue to engage, as a unit of a corrupt racketeering enterprises.

When a civil **RICO** plaintiff sues for loss of employment or employment opportunities, which are, within civil **RICO**, injuries to business or property, as a result of defendants' misconduct, she will have stated a civil **RICO** claim, because such loss is indeed compensable under **RICO**. See **Hunt v. Weatherbee, 626 F. Supp. 1097, 1011 (D. Mass. 1986)**, forcing one out of job is compensable **RICO** injury to business or property in the antitrust context, federal courts have frequently concluded that the loss of employment constitutes an injury to one's business or property. See **McNulty v. Borden, Inc., 474 F. Supp. 1111, 1116 (E.D. Pa. 1979); Rodobnich v. House Wreckers Union, Local 95, 627 F.2d 176, 180 (S.D.N.Y. 1985).** Also, see **Shearin v. E.F. Hutton Group, Inc., 885 F.2d 1162, 1170 (3d Cir. 1980),** in a **RICO** case, loss of earnings, benefits and reputation constitute self-evident injury. Indeed, since 2000, appellant has been harassed, stalked, and threatened where appellant suffered lack of employment in law in the past, and to present day.

PRIVATE ATTORNEYS; JUDGES IS NOT ENTITLED TO ABSOLUTE IMMUNITY AS AN AFFIRMATIVE DEFENSE TO PETITIONER RICO CLAIMS

Appellant contends, that **RICO** claims being federal claims are analyzed under federal law, as enacted by Congress and as consistently liberally and broadly interpreted by the Supreme Court in the civil context, as interpreted at least by he Supreme Court, **RICO** has an exceptionally broad reach. According to the Supreme Court, RICO legislatively sets out a far-reaching civil enforcement scheme; See **SEDIMA, S.P.R.L., v. IMREX COMPANY, INC., et al. 473 U.S. 479**, The Supreme Court held, that spawned a proliferation of civil RICO litigation, and that resulted in lower federal courts engaging in unprincipled statutory construction to get rid of **RICO** civil claims, but the Supreme Court consistently has stopped the lower courts' curtailment of civil **RICO**, reciting repeatedly the remedial purposes of **RICO**, and establishing that **RICO**, and each of its elements, and thus, civil **RICO** complaints, are to be broadly and liberally construed. **Id. at 485-86**. Conservative anti-civil **RICO** approaches were held inconsistent with

congress underlying policy concerns, and the Court rejected restrictive rules which would severely handicap potential plaintiffs when the government itself may choose to pursue only civil remedies because private attorney general provisions such as **§ 1964(c)** are in part designed to fill these prosecutorial gaps. **Id. at 492**, by including a private right of action in **RICO**, congress intended to bring the pressure of private attorneys generals on a serious problem for which public prosecutorial resources congress deemed inadequate. See **Holmes v. Securities Investor Protection Corp., 503 U.S. 258, 281 (1992).**

The approach is that **RICO** is to be read in no way less than broadly. See **Sedima, 473 U.S. at 497-98**. Congress codified in **RICO** an express admonition, that **RICO**, and each of its elements is to be liberally construed to effectuate its remedial purposes. **Id. at 498**, and, clearly, although lower courts consistently have conveyed distress at the extraordinary, if not outrageous uses to which civil **RICO** has been put being used against not only mobsters and organized criminals, but also previously respected and legitimate enterprises, Congress indisputably wanted to reach both legitimate' and illegitimate' enterprises, **Id. at 499**; because legitimate enterprises enjoy neither an inherent incapacity for criminal activity nor immunity from its consequences. Id. The fact that **RICO** has been applied in situations not expressly anticipated by Congress or district judges or appeals court judges or government civil attorneys does not demonstrate ambiguity rather it demonstrates its breadth. **RICO**, proposes its broad remedial purposes, and is applicable both to illegitimate and legitimate enterprises conducted through racketeering operations, **Turkette, 452 U.S. 576**, and civilly catches cops, sheriffs, judges, courts, and police departments, whose affairs have been corruptly run. See e.g., **Salinas v. United States, 522 U.S. 52 (1997),** sheriff and deputy sheriff; **United States v. Gonzalez, 21 F.3d 1045 (1st Cir. 1994)**, sheriffs department and deputies; **Cowan v. Corley, 814 F.2d 223 (5th Cir. 1987),** sheriff's department and deputies; **Evans v. City of Chicago, 2001 WL 1028401 (N.D. Ill. 2001),** city beat cops; **United States v. Qaoud, 777 F.2d 1105 (6th Cir. 1985),** court as conducted by a judge, cert. denied sub nom. **Callanan v. United States, 475 U.S. 1098 (1986); United States v. Maloney, 71 F.3d 645 (7th Cir. 1995),** state judge in performance of judicial function).

In **Doug Maurier v. City of Laguna Beach** case number: **11-56568**, was dismissed, however, the Court ignored plaintiff's **42 U.S.C. Section 1983** civil complaint stating video depicting excessive used by Laguna Beach police officer Rod McDonald, and the fact that **65** year old Doug Maurier was held in Jail for

three hours before taken to Hospital for his fractured arm. Also if this wasn't enough Laguna Beach Police committed excessive force against Doug Maurier once again where Doug Maurier pursued a second complaint against the City of Laguna Beach Department; Also, in **John Gallagher v. San Diego Port** case number **08cv0886**, appellant, and partner criminal defense lawyer Mike Squibb assisted John Gallagher in a **A.D.A.**, violation pursuant to **42 U.S.C. Section 12101**, however, appellant resigned himself from case due the Court ruling for a amended complaint pursuant to **42 U.S.C. Section 1983**. In addition appellant left John Gallagher's case on the issue of harassment of the San Diego County Law Library, and the closing the Federal section of the third floor law library by San Diego Superior Court Judges; See **United States v. Baker, 227 F.3d 955, 957-59 (7th Cir. 2000)**, a county sheriff is enterprise; collecting numerous cases from various circuits finding courts, prosecutors, and state agencies to be racketeers and enterprises. Indeed, in both these cases were corrupt, prejudicial, and bias towards plaintiff's.

Further, those associated with or employed by or who manage an enterprise, by those facts alone, are the racketeers who appellant contends, that California Enterprises, Fire Fighters, Judges, and Attorneys where in fact engaged in a conspiracy cover-up, in which prior defendants-respondents San Diego Police Chief Jerry Sanders to Mayor, San Diego City Attorney Sim Von Kalinowski to Superior Court Judge, and San Diego Officer Ray Morales to Detective; Riverside Paramedic Christopher Phillips to Engineer conducted a racketeering during, and after appellants trials, and litigation. In addition to San Diego City Attorney Maria Severson withheld information from petitioner, that officer Ray Morales was promoted to Detective until day of trial. See **Cedric Kushner Promotions, Ltd. v. King, 121 S. Ct. 2087, 2090-92 (2001).**

RICO PREDICATE ACTS

As with each element of **RICO**, it is well-settled law that, in defining predicate acts, courts are to interpret **RICO** liberally in accordance with **Sedima**. In determining whether a complaint alleges a predicate act based on an act or threat involving, **18 U.S.C. § 1961(a)(1),** the state law offenses, it must be remembered that the word involving utilized in the statutory definition of racketeering activity is broad, and the legislative history requires a broad application of acts involving the state predicates; See **U.S. v. Forsythe, 560 F.2d 1127**; Also, see **Williams v. Stone, 109 F.3d 890, 894 (3d Cir.), cert. denied, 522 U.S. 956 (1997).** On a

motion to dismiss a **RICO** claim on this basis, a court is required to take the allegations as true, give them the benefit of all fair inferences, and take into consideration the availability of discovery to fill in the details since there may be sufficient provable facts to support them; See **Rose v. Bartle, 871 F.2d at 367**. In accordance with its consistent liberal application of **RICO**, the Supreme Court reinstated a civil **RICO** claim it found to have been improperly dismissed by the district court, in an overzealous attempt to rid its docket of a properly pleaded **RICO** claim, premised on an allegation of the state predicate of extortion - threats and inducements made to the injure parties to get them to give up their rights to engage in their chosen employment and,or profession, and to give up their rights to medical services. See **NOW, 510 U.S. 249 at 256-57, 260**. Appellant contends, that recently appellant chose to leave employment in Krispy Kreme's in 2022, and Vermont Post Office in 2018 due to continuing harassment, retaliation, stalking, and threats by these Evil prior defendants-respondents. Furthermore, these same Horrible defendants-respondents have retaliated against petitioner with his litigation for approximately 15 years.

PETITIONER RICO CLAIMS AGAINST CALIFORNIA GOVERNMENT ENTITIES, OFFICIALS, AND OFFICERS DOES HAVE MERIT

A civil **RICO** action against a governmental entity and its officers in their official capacities is not precluded. The starting point on this issue is **Monell v. New York City Dept. of Soc. Servs., 436 U.S. 658, 685-88 (1978),** which makes governments proper defendants in **Section 1983** actions, and the ending point is **Newport v. Fact Concerts, Inc., 453 U.S. 247, 262-63 (1981),** which precludes the imposition of **§ 1983** punitive damages against governmental entities. The issue of municipal civil **RICO** liability, or not lies in the middle and is an open question, there being no Supreme Court authority addressing the precise issue. There has been guidance from Congress which, by statute, set forth its intent that civil **RICO** and its provisions shall be liberally construed to effectuate its remedial purpose, **18 U.S.C. § 1961**, and additional guidance from the Supreme Court, which consistently cites to the remedial nature of civil **RICO** in interpreting its elements and applications. See **Sedima**, **Kushner**, **Turkette**, **NOW**, **Salinas**, and **Beck**. The Supreme Court has refused to go beyond the plain meaning of the **RICO** statute and import special requirements of proof peculiar to **RICO**, and has rejected the requirement of a special racketeering injury. **Sedima, 473 U.S. at 495**; see also Kushner, ending lower courts' perversion of separateness requirement. It is

axiomatic, as recognized in **United States ex rel. Satalich v. City of Los Angeles, 160 F.Supp. 2d 1092, 1109-10 (C.D. Cal. 2001),** holding False Claims Act imposition of double damages for retaliation against whistle-blower was compensatory in nature and holding city liable notwithstanding the dual, punitive nature of double damages, that statutes which are remedial in nature do not otherwise amount to being punitive, simply because the statute authorizes double or treble damages, as does **RICO**. Under California law for example, by statute, the government has consented to be responsible for what its employees have done, waiving any immunity from suit. **Cal. Gov't Code § 815.2** provides that a public entity is liable for injury proximately caused by an act or omission of an employee of the public entity within the scope of his employment, and this includes intentional torts, such as false imprisonment and the falsification of evidence and reports on behalf of the prosecution. See **Martinez v. City of Los Angeles, 141 F.3d 1373 (9th Cir. 1998); McKay v. San Diego County, 111 Cal.App. 3d 251 (App. 4th Dist. 1980),** when prosecution investigator provides false information, neither employee, nor is public entities immune. Indeed, appellant contends, that Riverside County charges of trespassing in the Fire Department, and resisting arrest was dismissed. Also, Riverside prosecution had knowledge of such trespassing in Temecula Fire Department did not apply, and Riverside prosecution had knowledge of Christopher Phillips declaration stating appellant got an ass kicking from the deputy.

Furthermore, California law authorizes indemnification by the government of punitive damages awarded against government actors, **Cal. Gov't Code 825 (b),** and when routinely these indemnifications are granted, any argument grounded in any alleged public policy against costing the taxpayers money would be specious and not grounded either in law or fact. A **RICO** treble damage award is remedial in nature. See; **Epstein v. Epstein, 966 F.Supp. 260 (S.D. N.Y. 1997),** holding that treble damages, which are remedial in nature, are not precluded under the common law rule that punitive claims do not survive the defendant's death; **First American Corp. v. Al-Nahyan, 948 F.Supp. 1107 (D.D.C.1996).** The remedial nature of treble damages is proved by the fact that punitive damages may be awarded in addition to the **RICO** treble damage award. See **Al-Kazemi v. General Acceptance & Investment Corp., 633 F.Supp. 540, 543-44 (D.D.C.1986)** lowering, but permitting, a punitive damage award in addition to a **RICO** treble damage award; see also **Com-Tech Associates v. Computer Associates Intern., Inc., 753 F. Supp. 1078, 1093 (E.D.N.Y. 1990),** request for punitive damages in

addition to treble damages would not be stricken at pleading stage, therefore, appellant argues, that the district court in this case erred in civil Rico claims, and conspiracy claims, which where in fact properly, and adequately pleaded. See **Diaz v. Gates, 380 F.3d 480, (9th Cir. 2004),** thus demonstrated injury to business or property and a showing of concrete financial loss, and not mere injury to a valuable intangible property interest. **Id., 483.**

PETITIONER DOES HAVE MERIT RICO CLAIMS AGAINST SAN DIEGO AND LAGUNA BEACH POST OFFICES OF RICO MAIL FRAUD

Racketeer Influenced and Corrupt Organizations Act **RICO** provides a private right of action for treble damages to any person injured in his business or property by reason of the conduct of a qualifying enterprise's affairs through a pattern of acts indictable as mail fraud. **18 U.S.C.A. §§ 1341, 1964(c).** Plaintiff asserting a civil **Racketeer Influenced and Corrupt Organizations Act RICO** claim predicated on mail fraud need not show as an element of its claim that it relied on the defendant's alleged misrepresentations; abrogating **Van Den Broeck v. CommonPoint Mortgage Co., 210 F.3d 696 (C.A.6 2000); Sikes v. Teleline, Inc., 281 F.3d 1350 (C.A.11 2002)**. Indeed, petitioner argues that in 2019, and 2020, San Diego and Laguna Beach engaged in mail fraud on the issue of withholding petitioners mail for approximately nine months.

Also, **18 U.S.C. § 1964(c),** provides a private right of action for treble damages to any person injured in his business or property by reason of a violation, as pertinent here, of **§ 1962(c),** which makes it unlawful for any person employed by or associated with a qualifying enterprise to conduct or participate in the conduct of such enterprise's affairs through a pattern of racketeering activity including mail fraud; **§ 1961(1)(B).** mail fraud in turn occurs whenever a person having devised or intending to devise any scheme or artifice to defraud uses the mail for the purpose of executing such scheme or artifice; **§ 1341.** The gravamen of the offense is the scheme to defraud, and any mailing incident to an essential part of the scheme satisfies the mailing element. See **Schmuck v. United States, 489 U.S. 705, 712,** even if the mailing contains no false information. **Id., at 715.** Indeed, appellant contends in 2010, Laguna Beach Post Office withheld Doug Maurier's legal mail, which exactly occurred to petitioners withholding of mail in 2020. Furthermore, these patterns of mail fraud would most defiantly would indicate racketeering by prior defendants-respondents.

Using the mail to execute or attempt to execute a scheme to defraud is indictable as mail fraud, and hence a predicate racketeering act under **RICO**, even if no one relied on any misrepresentation, See **Neder v. United States, 527 U.S. 1, 119 S.Ct. 1827, 144 L.Ed.2d 35**; and one can conduct the affairs of a qualifying enterprise through a pattern of such acts without anyone relying on a fraudulent misrepresentation, thus no reliance showing is required to establish that a person has violated **§ 1962(c)** by conducting an enterprise's affairs through a pattern of racketeering activity predicated on mail fraud, nor can a first-party reliance requirement be derived from **§ 1964(c),** which, by providing a right of action to any person injured by a violation of **§ 1962**, suggests a breadth of coverage not easily reconciled with an implicit first-party reliance requirement. **Id. at 24-25.** Petitioner contends, California temporary I.D., and dates will show Mail Fraud.

DISTRICT COURT ABUSED ITS DISCRETION, AND BIASED TOWARDS PETITIONER PUSUANT TO FEDERAL RULES OF CIVIL PROCEDURE RULE 15

In **Nation City Mortg Co. v. Vavarro, 22 F.R.D. 102**, Under **Federal Rule of Civil Procedure 15(a),** a party may amend its pleading once as a matter of course at any time before a responsive pleading is served. **FED.R.CIV.P. 15(a).** According to our court of appeals, **Rule 15(a),** guarantees a plaintiff an absolute righ to amend the complaint once at any time so long as the defendant has not served a responsive pleading and the court has not decided a motion to dismiss. See **James V. Hurson Assocs., Inc. v. Glickman, 229 F.3d 277, (D.C.Cir.2000),** If there is more than one defendant, and not all have served responsive pleadings, the plaintiff may amend the complaint as a matter of course with regard to those defendants that have yet to answer. **Id. at 282-83**. See **James V. Hurson Assocs., 229 F.3d at 283; Bowden v. United States, 176 F.3d 552 (D.C.Cir.1999); U.S. Info. Agency v. Krc, 905 F.2d 389, 399 (D.C.Cir.1990), Id. at 104**. Indeed, petitioner contends, that the respondents were not served with summons, or amended **RICO** complaint.

The Court held in **lLiteky v. U.S., 510 U.S. 540; United States v. Grinnell Corp., 384 U.S. 563, 583, 86 S.Ct. 1698, 1710, 16 L.Ed.2d 778**, applies to **§ 455(a).** It was developed under **§ 144**, which requires disqualification for personal bias or prejudice. That phrase is repeated as a recusal ground in **§ 455(b)(1),** and **§ 455(a),** addressing disqualification for appearance of partiality, also covers bias or **1150** prejudice. The absence of the word personal in **§ 455(a)** does not preclude the

doctrine's application, since the textual basis for the doctrine is the pejorative connotation of the words bias or prejudice, which indicate a judicial predisposition that is wrongful or inappropriate. Similarly, because the term partiality refers only to such favoritism as is, for some reason, wrongful or inappropriate, **§ 455(a)'s** requirement of recusal whenever there exists a genuine question concerning a judge's impartiality does not preclude the doctrine's application. A contrary finding would cause the statute, in a significant sense, to contradict itself, since petitioners acknowledge **§ 455(b)(1)** embodies the doctrine, and **§ 455(a)** duplicates **§ 455(b)'s** protection with regard to bias and prejudice. **Id., at 541**. Indeed, the lower Court was biased towards appellant when he was very ill due to complications of double hernia, and the fact of appellants address of the Light House Shelter in **RICO** claim.

The **Federal Rules of Civil Procedure** guarantee a plaintiff an absolute right to amend its complaint once at any time before the defendant has filed a responsive pleading. See **FED.R.CIV.P. 15(a),** A party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served. In this case, the **USDA** filed no answer, but only a motion to dismiss. We have repeatedly clarified that a motion to dismiss is not a responsive pleading for the purposes of **Rule 15**. See, e.g., **Confederate Memorial Ass'n v. Hines, 995 F.2d 295, (D.C.Cir.1993),** A motion to dismiss is not ordinarily considered a responsive pleading under **Rule 15(a),** appellants could have amended their complaint as of right prior to the court's decision on the motions. **Id. at 299**. See **Bowden v. United States, 176 F.3d 552, 555 (D.C.Cir.1999)**, At the time appellant sought to amend his Rico complaint, which is not considered a responsive pleading, therefore was entitled as a matter of right to amend its complaint, it was error for the District Court to refuse to consider its added claims; See **Fitzpatrick v. Gates, 2003 WL 22385397 (C.D. Cal. 2003):** summary judgment and ex parte application case, seeming to set forth requirement that, contrary to **F.R.C.P. Rule 5(b) (2) (D),** ex parte applications must be served by fax, notwithstanding that Rule **5 (b)** does not permit that absent a stipulation. **Rampart** scandal case, false charges case; **Fitzpatrick v. Gates, 2004 WL 239825 (C.D. Cal. 2004):** granting motion to dismiss for want of service within the **120** days required by **Rule 4(m),** Federal Rules of Civil Procedure, and stating that custom and policy claim survives dismissal of individual defendants pursuant to **Rule 4(m).** Rampart scandal, police brutality case. Indeed, court erred in this case, because prior defendants-

respondents where not served with summons-addresses, or amended **RICO** complaint.

In **Ciralsky v. C.I.A., 355 F.3d 661(D.C.Cir.2004)**, The Court held, the dismissal with prejudice of either a complaint or an action is final and appealable. See **Heffernan v. Hunter, 189 F.3d 405, 408 (3d Cir.1999); Karim–Panahi v. Los Angeles Police Dept., 839 F.2d 621, 623 (9th Cir.1988)**. However, courts often regard the dismissal without prejudice of a complaint as not final, and thus not appealable under **28 U.S.C. § 1291**, because the plaintiff is free to amend his pleading and continue the litigation. See **Hoskins v. Poelstra, 320 F.3d 761, 763 (7th Cir.2003);** Also see **WMX Tech., Inc. v. Miller, 104 F.3d 1133, 1136 (9th Cir.1997);** The dismissal without prejudice of an action, or case, by contrast, is a different matter. As the Supreme Court said in **United States v. Wallace & Tiernan Co.** That the dismissal was without prejudice to filing another suit does not make the cause unappealable, for denial of relief and dismissal of the case ended this suit as far as the District Court was concerned. **336 U.S. 793, 794–95 n. 1, 69 S.Ct. 824, 825–26 n. 1, 93 L.Ed. 1042 (1949).** Most courts that have considered the question have followed the Supreme Court's lead, holding that the dismissal of an action whether with or without prejudice is final and appealable. See **United States v. Mitchell, 551 F.2d 1252, 1260 n. 35 (D.C.Cir.1976),** finding that an appeal of a denial without prejudice of a petition was appropriate under **28 U.S.C. § 1291. Id, at 667.** In this case petitioner was denied without prejudice.

Good Cause

As the Court noted in its prior opinion, because petitioner failed to move for leave to amend by the deadline under **Rule 15(a)** s more liberal standard, they must instead satisfy the more stringent good cause standard of **Rule 16(b)(4). Rule 16(b)'s** good cause standard focuses on the timeliness of the amendment and the reasons for its tardy submission. See **Lurie v. Mid-Atl. Permanente Med. Grp., P.C., 589 F. Supp. 2d 21, 23 (D.D.C. 2008)** The Court's inquiry must focus on the reasons the plaintiffs have given for their delay instead of the substance of the proposed amendment. **Id. Rule 16(b)**'s good cause standard emphasizes the diligence of the party seeking the amendment. Prejudice to the opposing party remains relevant but is not the dominant criterion. Indifference by the moving party seals off this avenue of relief irrespective of prejudice because such conduct is incompatible with the showing of diligence necessary to establish good cause. **O'Connell v. Hyatt Hotels of P.R., 357 F.3d 152, 155 (1st Cir. 2004);** The

decision to permit late amendment is entrusted to the Court's discretion. **Nourison Rug Corp. v. Parvizian, 535 F.3d 295, 298 (4th Cir. 2008)**. Indeed, petitioner argues, that he did in fact file his amended complaint on time.

Motions to amend pleadings filed within the time set by a scheduling order are subject to review under the standard of **Rule 15**, which instructs that the court should freely give leave when justice so requires. **Fed.R.Civ.P. 15(a)(2).** By contrast, such motions filed after a scheduling order deadline has passed are subject to the more stringent good cause standard of **Rule 16(b) (4)** for modification of a scheduling order. See **Cf. KG Litig. v. Samsung Techwin Co. (In re Papst Licensing GmbH & Co.), 762 F.Supp.2d 56, 59 (D.D.C.2011)**, good cause standard of **Rule 16** applies to motion for leave to amend a pleading after a scheduling order deadline has passed); Also see **Lurie v. Mid–Atlantic Permanente Med. Group, P.C., 589 F.Supp.2d 21, 23 (D.D.C.2008).** Plaintiff contends, that the District Court made the order for petitioner to submit his amended complaint by May 31, 2022, in which petitioner complied by filing his amended complaint on both dates May 12, 2022 and May 27, 2022.

The standard for assessing the legal sufficiency of a complaint was set out in **Conley v. Gibson, 355 U.S. 41, 78 S.Ct. 99, 2 L.Ed.2d 80 (1957).** In appraising the sufficiency of the complaint we follow the accepted rule that a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief; **355 U.S. at 45–46, 78 S.Ct. 99**. The plaintiff here is pursuing the case on a pro se basis. Pro se complaints are generally held to less stringent standards than formal pleadings drafted by lawyers. See **Haines, Supra, 404 U.S. 519, 520, 92 S.Ct. 594, 30 L.Ed.2d 652 (1972),** in valuating petitioner **RICO** complaint in this case against **RICO** defendants does not find at this juncture, that petitioner can prove no set of facts in support of his claim, which would entitle him to relief. **Conley, 355 U.S. at 45–46, 78 S.Ct. 99**.

PETITIONER ARGUES THAT RESPONDENT CINNAMON BELL VIOLATED PETITIONERS FOURTH AMENDMENT RIGHTS

It is well settled that an arrest without probable cause violates the Fourth Amendment. See **Martin v. Malhoyt, 830 F.2d 237, 262 (D.C.Cir.1987),** An arrest is supported by probable cause if at the moment the arrest was made the facts and circumstances within the arresting officers knowledge and of which they had reasonably trustworthy information were sufficient to warrant a prudent man in

believing' that the suspect has committed or is committing a crime. See **Wesby v. District of Columbia, 765 F.3d 13, 19 (D.C.Cir.2014)**. Indeed, appellant contends that he had food poisoning at the Fire Department, and was to ill to resist arrest. In addition appellants Riverside Superior Court dismissed charges for resisting arrest, and trespassing in Fire Department against petitioner.

Also, See **Beck v. Ohio, 379 U.S. 89, 85 S.Ct. 223, 13 L.Ed.2d 142 (1964).** Where defendant alleged that he was arrested and charged by defendant officer with animal cruelty and possession of illegal drugs, but that such charges lacked any factual basis of lawfully obtained evidence supporting probable cause. **Id. at 91**. Appellant argues, that Fire Department personal search appellant before appellee deputy Bell arrived at the scene.

As in other Fourth Amendment contexts, however, the reasonableness inquiry in an excessive force case is an objective one: the question is whether the officers' actions are objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. See **Scott v. United States, 436 U.S. 128, 137–139, 98 S.Ct. 1717, 1723–1724, 56 L.Ed.2d 168 (1978);** see also **Terry v. Ohio, 392 U.S., at 21, 88 S.Ct., at 1879**; in analyzing the reasonableness of a particular search or seizure, it is imperative that the facts be judged against an objective standard. An officer's evil intentions will not make a Fourth Amendment violation out of an objectively reasonable use of force, nor will an officer's good intentions make an objectively unreasonable use of force constitutional. See **Scott supra, 436 U.S., at 138, 98 S.Ct., at 1723**; Also, see **United States v. Robinson, 414 U.S. 218, 94 S.Ct. 467, 38 L.Ed.2d 427 (1973)**. Appellant contends, that abrasions to the left side of face, and two stitches over his left eye, that he received at the Temecula Hospital was indeed Evil acts of excessive force used by Riverside Deputy Bell.

COUNTY OF RIVERSIDE VIOLATED PETITIONERS DUE PROCESS RIGHTS UNDER THE FIFTH AND FOURTEENTH AMENDMENT OF THE UNITIED STATES CONSTITUTION

The Due Process Clause of the Fourteenth Amendment provides that no state may 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; See **Brady v. Maryland, 373 U.S. 83, 87, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963),** the Supreme Court held "that the suppression by the prosecution of evidence favorable

to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the can commit a constitutional deprivation analogous to that recognized in Brady by withholding or suppressing exculpatory material. See **Moldowan v. City of Warren, 578 F.3d 351, 379 (6th Cir. 2009); Brady** claims have three elements: **1,** the evidence at issue must be favorable to the accused, either because it is exculpatory, or because it is impeaching; **2,** that evidence must have been suppressed by the State, either willfully or inadvertently and **3**, prejudice must have ensued. See **Strickler v. Greene, 527 U.S. 263, 281–82, 119 S.Ct. 136, 144 L.Ed.2d 286 (1999)**; a jury is allowed to make reasonable inferences from facts proven in evidence having a reasonable tendency to sustain them, See **Galloway v. United States, 319 U.S. 372, 396, 63 S.Ct. 1077, 87 L.Ed. 1458 (1943),** and it is reasonable to infer that a detective who signs a report was involved in the events recounted in that report.

Riverside paramedic Christopher Phillips did not testify in appellants criminal trial, however, Christopher Phillips civil trial testimony was false on the issue of his sworn declaration in other words, that the statement was not the truth. That knowledge was exculpatory evidence. See **Giglio v. United States, 405 U.S. 150, 154, 92 S.Ct. 763, 31 L.Ed.2d 104 (1972)**, When the reliability of a given witness may well be determinative of guilt or innocence, nondisclosure of evidence affecting credibility falls within **Brady's** disclosure rule. The element of a **Brady** claim, a reasonable jury could find that Plaintiffs suffered prejudice as a result of the alleged suppression. To show prejudice, Plaintiffs must show that the allegedly suppressed evidence was material in other words, that there is a reasonable probability that the suppressed evidence would have produced a different verdict. See **Strickler, 527 U.S. at 280, 281, 119 S.Ct. 1936**. because Phillips coerced statement formed the core of the appellants civil trial, there is a reasonable likelihood that, had the juries in appellant trial known that that statement was fabricated and coerced, or that Phillips declaration stated "appellant got a ass kicking from deputy Bell", in which a jury would have convicted found defendant-respondent liable. Therefore, the petitioner contends a reasonable jury could find these elements of a **Brady** claims satisfied.

RESPONDENTS ATTORNEYS STARR SINTON AND AUTHOR CUNNINGHAM FABRICATING EVIDENCE; AND CHRISTOPHER PHILLIPS PERJURED TESTIMONY OBSTUCTION OF JUSTICE

The question for the Court, then, is whether an unsworn statement, even if captioned as an affidavit provides sufficient basis to preclude summary judgment. For several reasons, the Court concludes that it does not. The answer to this question starts with the Supreme Court's decision in **Celotex Corp. v. Catrett, 477 U.S. 317 (1986),** which held that a party opposing summary judgment need not produce evidence in a form that would be admissible at trial in order to avoid summary judgment" but must ordinarily offer the kinds of evidentiary materials listed in **Rule 56. Id. at 324**. Christopher Phillips sworn declaration, that "petitioner got a ass kicking", was without any doubt excessive force, however, his trial testimony was chicken scratch.

As to obstruction of justice, **18 U.S.C. § 1503** is satisfied whenever a person with the intent to influence judicial or grand jury proceedings takes actions having the natural and probable effect of doing so. **United States v. Aguilar, 515 U.S. 593, 600, 115 S.Ct. 2357, 132 L.Ed.2d 520 (1995);** see **United States v. Russo, 104 F.3d 431, 435–36 (D.C.Cir.1997).** Our review of the in camera materials on which the district court based its decision convinces us that the government sufficiently established the elements of a violation of **§ 1503**. That is, the government offered evidence that if believed by the trier of fact would establish the elements of the crime of obstruction of justice. See **In re Sealed Case, 107 F.3d at 50**; Also, see **In re Sealed Case, 754 F.2d 395, 399–400 (D.C.Cir.1985).** Appellant contends, that Christopher Phillips civil trial testimony was perjured by stating "chicken scratch", due to his sworn declaration stated otherwise.

To succeed on a fabricated-evidence claim, a plaintiff must establish that an **1,** investigating official **2,** fabricated information **3,** that is likely to influence a jury's verdict **4**, forwarded that information to prosecutors, and **5**, the plaintiff sufferred a deprivation of life, liberty, or property as a result. See **Garnett v. Undercover Officer C0039, 838 F.3d 265, 279 (2d Cir. 2016).** Indeed, appellant contends that attorneys Starr Sinton and Author Cunningham engaged in a conspiracy to cover-up by altering appellants pictures depicting excessive force used by Deputy Cinnamon Bell. In addition appellants attorney Starr Sinton enrolled at **U.C.S.D.**, for photographing while appellant case was pending, in which Starr Sinton did not inform appellant of these new pictures until five minutes before civil trial. First, that motive is not an element of the crime. The statute prohibits corruptly endeavoring to influence, obstruct, or impede, the due administration of justice; **18 U.S.C. § 1503**. Appellant contends that corruptly means having a corrupt motive, and that as a factual matter he lacked one because Riverside Fire Fighter David

Bell, and Riverside Deputy Cinnamon Bell most definitely persuaded, and motivated Fire Fighter Christopher Phillips to testify falsly. Appellant points to **United States v. Haldeman, 559 F.2d 31, 115 n. 229 (D.C.Cir.1976),** to support his theory, but that case simply explained that corruptly meant having an evil purpose or intent. Indeed Phillips testimony evil intent was to lie and mislead the trial jury was a obstruction of justice. See **United States v. Neiswender, 590 F.2d 1269, 1273 (4th Cir.1979).** Instead, the defendant need only have had knowledge or notice that success in his fraud would have likely resulted in an obstruction of justice Also, see **United States v. North, 910 F.2d 843, 882 (D.C.Cir.1990).** Furthermore, appellant contends that Fire Fighter Bell had just married Deputy Bell while appellant's civil trial pending, not to mention the intent to move two houses away from ex-wife Darlene Scott

The commitment of perjury is guilty of subornation of perjury, and shall be fined under this title or imprisoned not more than five years, or both; **18 U.S.C. § 1622.** Appellant argues that the statute incorporates a willfulness requirement and that willfulness in this context should mean voluntary, intentional violation of a known legal duty. See **Cheek v. United States, 498 U.S. 192, 200, 111 S.Ct. 604, 112 L.Ed.2d 617 (1991); United States v. Bishop, 412 U.S. 346, 360, 93 S.Ct. 2008, 36 L.Ed.2d 941 (1973).** The Government responds that Cheek applies only to highly technical statutes that present the danger of ensnaring individuals engaged in apparently innocent conduct; See **Bryan v. United States, 524 U.S. 184, 194, 118 S.Ct. 1939, 141 L.Ed.2d 197 (1998),** and so Christopher Phillips perjured testimony, and attorney Starr Sinton, and Author Cunningham's altered pictures definitely had knowledge of Christopher perjured testimony of excessive force, which must be defendant's burden to demonstrate it at trial. See **Dixon v. United States, 548 U.S. 1, 17, 126 S.Ct. 2437, 165 L.Ed.2d 299 (2006); United States v. Nwoye, 663 F.3d 460, 462 (D.C.Cir.2011).**

RESPONDENT TRIAL COURT ABUSE OF DISCRETION OFFICER RAY MORALES PRIORS OF EXCESSIVE FORCE UNDER FEDERAL RULES OF EVIDENCE 404

We review the district court's admission of evidence under both **Rule 403** and **Rule 404 (b),** for an abuse of discretion. See **United States v. Johnson, 519 F.3d 478, 483 (D.C.Cir.2008), Rule 404(b); United States v. Clarke, 24 F.3d 257, 265 (D.C.Cir.1994).** This court is extremely wary of second-guessing the legitimate balancing of interests undertaken by the trial judge in this context. **United States v.**

Ring, 706 F.3d 460, 472 (D.C.Cir.2013), Also, see **Henderson v. George Washington Univ., 449 F.3d 127, 133 (D.C.Cir.2006).** An erroneous admission of other crimes evidence must be disregarded as harmless error unless it had a substantial and injurious effect on the jury's verdict. See **United States v. Clark, 747 F.3d 890, 896 (D.C.Cir.2014);** Also, see **Kotteakos v. United States, 328 U.S. 750, 776, 66 S.Ct. 1239, 90 L.Ed. 1557 (1946).** Indeed, petitioner contends, that the Court decision, as to the denial of admission of evidence pertaining to Ray Morales priors of excessive force was without any doubt prejudicial towards petitioner to a fair trial.

Petitioner contends, that pursuant to **Federal Rules of Civil Procedure Rule 59 and 60**, a new trial arguing that, contrary to its pretrial representation, the appellant had introduced extensive other crimes evidence barred by **Rule 404(b).** The district court denied officer Morales priors of excessive force towards two Black suspects, concluded, that was direct evidence of the conspiracy, and was so inextricably intertwined with such direct evidence as to be intrinsic evidence of the charged offenses. See **United States v. Simmons, 431 F.Supp.2d 38, 58, 63, 72 (D.D.C.2006).** Indeed, appellant argues that in 2000 trial the Jury did not hear about officer Ray Morales priors of excessive force against Black people including a 54 year old Black Female, which prejudiced petitioners trial. In addition these two Black defendants were attacked by the neck, which was exactly the same, as petitioners case where Officer Ray Morales stuck appellant in the back of neck. This was highly relevant in petitioners trial, but was not presented to the jury.

The question for the Court, then, is whether an unsworn statement, even if captioned as an affidavit, provides sufficient basis to preclude summary judgment. For several reasons, the Court concludes that it does not. The answer to this question starts with the Supreme Court's decision in **Celotex Corp. v. Catrett, 477 U.S. 317 (1986),** which held that a party opposing summary judgment need not produce evidence in a form that would be admissible at trial in order to avoid summary judgment but must ordinarily offer the kinds of evidentiary materials listed in **Rule 56. Id. at 324.** San Diego Police Officer Ray Morales criminal trial testimony was that he had to use force to apprehend petitioner, in which petitioner used criminal transcripts, as evidence in civil trial, as well as discrimination towards petitioner.

Ray Morales excessive force used against Petitioner

In **Dormu v. District of Columbia**., **79 F.Supp.2d 7, 128**, the Court held the Fourth Amendment to the United States Constitution guarantees the right of citizens to be secure in their persons against unreasonable searches and seizures. **U.S. CONST. amend. IV**. A warrantless arrest to comport with the Fourth Amendment's protection against unreasonable seizures, the arrest must be predicated on particularized probable cause. See **Barham v. Ramsey**, **434 F.3d 565, 573 (D.C.Cir.2006).** The Fourth Amendment's freedom from unreasonable searches and seizures also encompasses the plain right to be free from the use of excessive force in the course of an arrest. See **Lee v. Ferraro**, **284 F.3d 1188, 1197 (11th Cir.2002),** citing **Graham**, **490 U.S. at 394–95, 109 S.Ct. 1865).** To enforce these rights, citizens may bring claims under **42 U.S.C. § 1983**. Again, see **Graham**, **490 U.S. at 394, 109 S.Ct. 1865.7**. Indeed, petitioner was struck two times in the back of the neck, in which the Court granted in summary judgement in favor of petitioner.

As to obstruction of justice, **18 U.S.C. § 1503** is satisfied whenever a person with the intent to influence judicial or grand jury proceedings takes actions having the natural and probable effect of doing so. **United States v. Aguilar**, **515 U.S. 593, 600, 115 S.Ct. 2357, 132 L.Ed.2d 520 (1995),** Also, see **United States v. Russo**, **104 F.3d 431, 435–36 (D.C.Cir.1997).** San Diego City Attorney Maria Severson did not inform appellant, that officer Morales was promoted to Detective until trial started which was undoubtedly obstruction of justice.

PETITIONER DID NOT HAVE A FAIR ADMINISTATIVE HEARING WHICH IS A VIOLATION OF DUE PROCESS CLAUSE UNDER THE FIFTH AND FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION

These decisions underscore the truism that due process unlike some legal rules is not a technical conception with a fixed content unrelated to time, place and circumstances. See. **Cafeteria Workers v. McElroy**, **367 U.S. 886, 895, 81 S.Ct. 1743, 1748, 6 L.Ed.2d 1230 (1961)**. Due process is flexible and calls for such procedural protections as the particular situation demands; **Morrissey v. Brewer**, **408 U.S. 471, 481, 92 S.Ct. 2593, 2600, 33 L.Ed.2d 484 (1972)**, Accordingly, resolution of the issue whether the administrative procedures provided here are constitutionally sufficient requires analysis of the governmental and private interests that are affected. **Arnett v. Kennedy**, **416 U.S., at 167-168, 94 S.Ct., at**

1650-1651; **Goldberg v. Kelly**, **397 U.S., at 263-266, 90 S.Ct., at 1018-1020**; **Cafeteria Workers v. McElroy**, **367 U.S., at 895, 81 S.Ct., at 1748-1749**. More precisely, our prior decisions indicate, that identification of the specific dictates of due process generally requires consideration of three distinct factors: First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. See. **Goldberg v. Kelly**, **397 U.S., at 263-271, 90 S.Ct., at 1018-1022**. Indeed, the Los Angeles Metro hearing officer being an employee must be fair and impartial, however, in this case the hearing officer agreed with Deputy Sergeant ticket, rather than petitioners evidence of paid Metro receipt was a due process violation.

Finally, the appellee alleges a substantive due process violation arguing, that he did not receive a fair hearing, absent a preponderance of the evidence determination. In support of this allegations appellees claims, that in **Vanover v. Hantman** , **77 F.Supp.2d 91 (D.D.C.1999),** the Court determined, that under the Due Process Clause of the Fifth Amendment are entitled to an administrative hearing on the charges pursuant the preponderance of the evidence, as the standard and a burden of proof with the Defendant Los Angeles Metro. While acknowledging that the hearing officer must satisfy some burden of proof at a termination hearing and after careful review, that the Hearing Officer must find that the Metro has presented evidence supporting the charge. **Id at 105–06**. Indeed, the Los Angeles Metro Hearing officer ignored appellees evidence of receipt of paid fare, which is a violation of petitioners Fifth and Fourteenth Amendment right to a fair administrative hearing.

CITY OF GLENDALE ORDINANCE 8.52.040 IS VAGUE AND UNCONSTITUTIONAL; AND PETITIONER ILLEGAL PAT-DOWN SEARCH WAS VIOLATION OF THE FOURTH AMENDMENT

The standards for evaluating vagueness were enunciated in **Grayned v. City of Rockford**, **408 U.S. 104, 108–109, 92 S.Ct. 2294, 2298, 33 L.Ed.2d 222 (1972);** the Vague doctrine is, **First**, because we assume that man is free to steer between lawful and unlawful conduct, we insist that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may

act accordingly. Vague laws may trap the innocent by not providing fair warning. **Second**, if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them. A vague law impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory applications. Also, see **Village of Hoffman Estates v. Flipside, Hoffman Estates, 455 U.S. 489-498**. Indeed, appellant argues, that **20** feet from any parking lot is Vague upon its face due to excessive amount of parking lots in the City of Glendale, nor was petition

On these allegations, the relevant standard on the merits is objective reasonableness. See **County of Los Angeles v. Mendez, 137 S. Ct. 1539, 1546, 198 L.Ed.2d 52 (2017).** A police officer's use of force is excessive and therefore violates the Fourth Amendment if it is not reasonable, that is if the nature and quality of the intrusion on the individual's Fourth Amendment interests is weightier than the countervailing governmental interests at stake. See **Rudder v. Williams, 666 F.3d 790, 795 (D.C. Cir. 2012),** See **Graham v. Connor, 490 U.S. 386, 396, 109 S.Ct. 1865, 104 L.Ed.2d 443 (1989),** In making this evaluation, courts pay careful attention to the facts and circumstances of the particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officer or others, and whether the is actively resisting arrest or attempting to evade arrest by flight. See **Hall v. District of Columbia, 867 F.3d 138, 157 (D.C. Cir. 2017)**; see also **Bell v. Wolfish, 441 U.S. 520, 559, 99 S.Ct. 1861, 60 L.Ed.2d 447 (1979),** directing courts evaluating reasonableness of search method to consider the scope of the particular intrusion, the manner in which it is conducted, the justification for initiating it, and the place in which it is conducted. Indeed, petitioner contends, that a cigarette ticket violation is no grounds to search petitioner, therefore, this was without any doubt is an illegal pat-down searched conducted by the City of Glendale Police Department on four separate occassions. In addition to the four smoking tickets given to petitioner was in fact the same time petitioner refused, but ultimately was subjected to an illegal pat-down search four times. See **Mwimanzi v. Wilson, 590 F.Supp.3d 231-254**.

CONCLUSION

For the foregoing reasons this writ of certiorari should be granted in its entirety.

I, Karl Masek, declare under penalty of perjury that these statements are true and correct to the best of my knowledge.

Respectfully Submitted,

KARL MASEK

In Pro Se

DATE: 05-22-2023