



No. 22-771

In The
Supreme Court of the United States

René Joseph Foley Bey; Julia Mae Foley Bey
Petitioners

v.

Steve Prator; Mark Terry; L.C. Cope; Glyn Best
Respondents

**On Petition For A Writ Of Certiorari
To The United States Court of Appeals
for the Fifth Circuit**

PETITION FOR A WRIT OF CERTIORARI

René Joseph Foley Bey and
Julia Mae Foley Bey
335 Rutherford Street
Shreveport, Louisiana Republic 71104
(504) 376-3123 / (318) 771-1768

QUESTION PRESENTED

1. Does the Constitution for the United States of America Republic (North America) guarantee that everyone has the Right to a trial by jury in suits at common law that exceed twenty dollars?

PARTIES TO THE PROCEEDING

1. Petitioners: René Joseph Foley Bey and Julia Mae Foley Bey were plaintiffs in the original complaint filed in the United States District Court Western District of Louisiana Shreveport Division and appellants in the appeal filed with the United States Court of Appeals for the Fifth Circuit.
2. Respondents: Steve Prator, Sheriff; Mark Terry, Deputy Sheriff; L.C. Cope, Deputy Sheriff; and Glyn Best, Deputy Sheriff were defendants in the original complaint filed in the United States District Court Western District of Louisiana Shreveport Division and respondents in the appeal filed with the United States Court of Appeals for the Fifth Circuit.

Respondents Counsel:

Joseph S. Woodley (Bar – 19228)

Pettiette, Armand, et al

400 Texas Street, Suite 400, Shreveport, LA 71101

(318) 221-1800

RELATED CASES

1. *Foley Bey v. Prator*, No. 19-cv-1262, U. S. District Court for the Western District of Louisiana. Judgment entered Aug. 4, 2021.
2. *Foley Bey v. Prator*, No. 21-30489, U. S. Court of Appeals for the Fifth Circuit. Judgment entered Nov. 17, 2022.

TABLE OF CONTENTS

| | |
|--|----|
| Questions Presented | i |
| Parties to Proceeding | ii |
| Table of Authorities | iv |
| Opinions Below | 1 |
| Jurisdictional Statement | 2 |
| Constitutional and Treaty Provisions | 3 |
| Introduction | 5 |
| Statement of the Case | 5 |
| Reason for Granting the Petition | 10 |
| Conclusion | 14 |

INDEX TO APPENDICES

| | |
|--|------|
| APPENDIX A – Opinion of the U. S. Court of Appeals for the Fifth Circuit entered November 17, 2022 ... | A-1 |
| APPENDIX B – Order Granting Motion for Summary Judgment by the U. S. District Court for the Western District of Louisiana entered August 4, 2021 | A-9 |
| APPENDIX C - 1787 United States-Morocco Treaty of Peace and Friendship | A-11 |

TABLE OF AUTHORITIES

| CASES: | Page |
|--|------|
| <i>Parsons v. Bedford, Breedlove & Robeson,</i> 28 U.S. 3 Pet. 433 433 (1830) | 5 |
| <i>Owings v. Norwood's Lessee, 9 U.S. (5 Cranch)</i> 344, 348 (1809) | 7 |
| <i>Curtis v. Loether, 22 ill.415 U.S. 189, 94S.Ct.1005,</i> 39 L.Ed. 2d 260 (1974) | 10 |
| <i>Baltimore & Carolina Line, Inc. v. Redman,</i> 295 U.S. 654, 295 U. S. 657 | 11 |
| <i>Marbury v. Madison, 5 U.S. 137 (1803)</i> | 12 |
| <i>Wooley v. State Farm Fire & Cas. Ins. Co.,</i> 04-882 (La. 1/19/05), 893 So.2d 746, 768 (quoting <i>Bd. of Comm'rs of Orleans Levee Dist.</i> <i>v. Dep't of Nat. Res.</i> , 496 So.2d 281, 287 (La.1986) (on rehearing)) | 12 |
| <i>Vincent v. City of Sulphur, 28 F. Supp. 3d 626</i> (La. 2014) | 13 |
| <i>State v. Ceaser, 859 So.2d 648 (La.2003)</i> | 13 |
| <i>Nesmith v. HD Alford, 318 F.2d 1 10 (1963)</i> | 14 |

In The
Supreme Court of the United States

No. _____

René Joseph Foley Bey; Julia Mae Foley Bey

Petitioners

v.

Steve Prator; Mark Terry; L.C. Cope; Glyn Best

Respondents

**On Petition For A Writ Of Certiorari To The
United States Court of Appeals for the Fifth Circuit**

PETITION FOR A WRIT OF CERTIORARI

The petitioners, René Joseph Foley Bey and Julia Mae Foley Bey, respectfully request that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Fifth Circuit entered on November 17, 2022.

OPINIONS BELOW

The Fifth Circuit Court of Appeals found no error and affirmed the summary judgment and denial of recusal by the U. S. District Court for the Western District of Louisiana, Shreveport Division on November 17, 2022 in a

published opinion: *Bey v. Prator*, 21-30489, (5th Cir. 2022). (See Appendix A) The U. S. District Court for the Western District of Louisiana had previously granted the Motion for Summary Judgment by the defendants on August 4, 2021 on Case No. 5:19-cv-01262. (See Appendix B)

JURISDICTIONAL STATEMENT

This Court's jurisdiction is invoked under 28 U.S.C. §1254(1) and additionally, the Constitution for the United States of America Republic (North America), Article III, Section 2.

“The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, Treaties made, or which shall be made, under their Authority; to all Cases affecting Ambassadors, other public Ministers and Consuls; to all Cases of admiralty and maritime Jurisdiction; to Controversies to which the United States shall be a Party; to Controversies between two or more States; between a State and Citizens of another State; between Citizens of different States; between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.”

“In all Cases affecting Ambassadors, other public Ministers and consuls, and those in which a State shall be a Party, the Supreme Court shall have original Jurisdiction. In all the other Cases before mentioned,

the Supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under Regulations as the Congress shall make."

CONSTITUTIONAL AND TREATY PROVISIONS

The Constitution for the United States of America Republic (North America) provisions as related to this case are as follows:

Article IV, Section 4 provides: "The United States shall guarantee to every State in this Union a Republican Form of Government..."

Article VI, Clauses 1-2 provides: "All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation." "This Constitution and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

First Amendment provides: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

Fourth Amendment provides: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

Seventh Amendment provides: “In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States.”

Eighth Amendment provides: “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”

Ninth Amendment provides: “The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people.”

*1786 United States-Morocco Treaty of Peace and Friendship*¹ sealed by the Emperor at Morocco June 23, 1786 (25 Shaban, A. H. 1200) and delivered to Thomas Barclay, American Agent on June 28, 1786 (1 Ramadan, A. H. 1200). The additional article was signed and sealed at Morocco on behalf of Morocco July 15, 1786 (18 Ramadan, A. H. 1200). Treaty and additional article ratified by the United States July 18, 1787. (APPENDIX C)

¹ Renewed 1836 (8 Stat. 484 & Pub. L. 857)

INTRODUCTION

The issue in this case is fundamental to the rights of all people and in particular those who have had their rights violated by police, law enforcement, sheriff's deputies, etc. and have been refused their fundamental right to seek remedy before a fair and impartial jury.

"The trial by jury is justly dear to the American people. It has always been an object of deep interest and solicitude, and every encroachment upon it has been watched with great jealousy. The right to such a trial is, it is believed, incorporated into and secured in every state constitution in the Union." *Parsons v. Bedford, Breedlove & Robeson*, 28 U.S. 3 Pet. 433 433 (1830).

René Foley Bey and Julia Foley Bey were deprived of their constitutional right to a jury trial as stated in Article VII of the Constitution for the United States of America Republic (North America). There are material facts brought forth by the Plaintiffs/Appellants that have not been disputed by the Defendants/Respondents, nor acknowledged by the Courts, that must be decided by a jury.

STATEMENT OF THE CASE

Petitioners, René Joseph Foley Bey and Julia Mae Foley Bey, entered the lobby of the Caddo Parish Courthouse in Shreveport, Louisiana on September 28, 2018 to place documents on the record in the Clerk of Court's office.

Peacefully standing inside the lobby of the courthouse, they presented themselves, human, natural, flesh and blood beings, Moslems, Moorish-American Nationals, bringing Peace and expressing the United States – Morocco Treaty of Peace and Friendship. After a short peaceful conversation (which can be seen clearly on video) with Deputy Sheriff Mark Terry, accompanied by Deputy Sheriffs L.C. Cope and Glyn Best, they were falsely arrested, assaulted and battered. They were taken to the basement of the courthouse and what continued was a series of violations against René Foley Bey and Julia Foley Bey, their persons, character and reputation as outlined in their unrebutted Affidavits. The violations of the Plaintiffs' rights and liberties under the Constitution for the United States of America Republic (North America), and the violation of their protection under the 1836 United States – Morocco Treaty of Peace and Friendship (8 Stat. 484 & Pub. L. 857 et seq.) are violations of the Department of State Bulletin, November 26, 1956, p. 844.

On March 25, 2019, All allegations against René Foley Bey and Julia Foley Bey, as a result of the false arrest, were dismissed by the Caddo Parish District Attorney for lack of probable cause.

Preceded by a timely Notice of Presentment, September 26, 2019, Plaintiffs René and Julia Foley Bey timely filed their Complaint with the United States District Court for the Western District of Louisiana – Shreveport Division,

paying the filing fee of \$400.00 and demanding a Jury Trial. René and Julia Foley Bey brought their complaint in good faith seeking remedy under 42 U.S. Code § 1983.

The Plaintiffs, as Moorish-American Nationals, allege the Defendants violated their rights as protected under Article VI of the Constitution for the United States of America Republic (North America), in harmony with rights protected by the 1786 United States-Morocco Treaty of Peace and Friendship (renewed 1836, 8 Stat. 484 & Pub. L. 857 et seq.)² still in force, and the longest standing, unbroken treaty in the world. To quote the venerable jurist and international lawyer, Emer de Vattel, “The faith of treaties are sacred, he who violates them violates the law of nations.”³

Article 3 of the Treaty states, “...they shall pass free and unmolested without any attempt being made to take or detain them.” The Beys entered the courthouse as a port for commercial activity only to be molested by representatives of the United States in violation of said Article, as well as Article 7 of the Treaty. “If ... either party shall ... have occasion for provisions or other supplies, they shall be furnished without any interruption or molestation.” When

² Chief Justice Marshall, writing for the U.S. Supreme Court declared: “Each treaty stipulates something respecting the citizens of the two nations, and gives them rights. Whenever a right grows out of, or is protected by, a treaty, it is sanctioned against all the laws and judicial decisions of the states; and whoever may have this right, it is to be protected.” *Owings v. Norwood’s Lessee*, 9 U.S. (5 Cranch) 344, 348 (1809)

³ The Law of Nations. (Phila: William Duane, 1809) p. 88-90

the Beys entered the courthouse that day, they were flying their colors as René Foley Bey was wearing the Moroccan flag pendant per Article 4 of the Treaty. “A signal or pass shall be given ... the Declaration of the commander shall alone be sufficient to exempt any of them from examination.” René Foley Bey asked each of the deputies he spoke with for their commander. Deputy Sheriff Mark Terry stated that there was no other commander than him at the building, therefore, he was acting in his professional capacity on behalf of the Sheriff when he breached the Treaty.⁴

Along with denying Plaintiffs protection under the 1836 United States-Morocco Treaty of Peace and Friendship, the Defendants also violated Plaintiffs’ Constitution for the United States of America Republic (North America) First Amendment Right to freedom of speech, free exercise of religion, freedom of the press, and to peaceably assemble; along with their Fourth Amendment Right to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures; Eighth Amendment

⁴La. Code of Civil Procedure § 331. Deputy sheriffs and other employees, states “Except as otherwise provided by law, a deputy sheriff possesses all of the powers and authority granted by law to the sheriff, and may perform any of the duties and exercise any of the functions of the sheriff. Deputy sheriffs and other employees of the sheriff are subject to his direction and supervision, and shall perform the duties assigned to them by law, and by the sheriff. The sheriff is responsible for the performance or nonperformance of their official duties by his deputies and other employees.”

Right that “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted”; Ninth Amendment Right that “The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people”; et al.

The case was assigned to Chief Judge S. Maurice Hicks, Jr. and Magistrate Judge Mark L. Hornsby. After denying Plaintiffs’ Motion for Summary Judgment, granting multiple rulings in favor of the Defendants, and allowing Defendants to withhold evidence during discovery, on August 4, 2021, upon recommendation by Magistrate Judge Hornsby, Chief Judge Hicks granted Defendants, Deputy Sheriffs Mark Terry, L.C. Cope, Glyn Best and Sheriff Steve Prator, Motion for Summary Judgment and ordered all Plaintiffs’ remaining claims dismissed with prejudice.

August 10, 2021, René and Julia Foley Bey timely filed an appeal to the United States Court of Appeals for the Fifth Circuit, paying the fee of \$505.00, stating the District Court erred in granting the Defendants’ Motion for Summary Judgment and asking the Court to reverse the judgment and remand the case for Jury Trial based on its merits.

November 17, 2022, the United States Court of Appeals for the Fifth Circuit Judges Smith, Barksdale and Haynes affirmed the District Court ruling stating “the district court

correctly granted summary judgment,” and further denying René and Julia Foley Bey their right to a jury trial.

REASONS FOR GRANTING THE PETITION

- I. THIS COURT SHOULD GRANT REVIEW TO DECIDE IF THE APPELLATE COURT ERRED IN NOT ADDRESSING ALL MATERIAL FACTS PRESENTED BY THE PLAINTIFFS IN THEIR APPEAL AND ORIGINAL COMPLAINT, THEREFORE DENYING PETITIONERS THE RIGHT TO A JURY TRIAL.**

This petition arises out of a decision of the United States Court of Appeals Fifth Circuit denying Petitioners the right to due process and a jury trial. The gross negligence of the District Court and Court of Appeals to fail to view the complaint brought forth by the Plaintiffs in its entirety; address the Constitutional and Treaty violations; and to ignore the dispute in material facts calls for a review by a court with the authority to right the error that has occurred. In *Curtis v. Loether*⁵, the U.S. Supreme Court rules that the Seventh Amendment gives parties the right to a jury trial in all civil cases, even when the basis for the lawsuit is a congressionally enacted statute rather than a “common law” cause of action.

“The aim of the (Seventh) Amendment is to preserve the substance of the common law right of trial by jury, as

⁵ *Curtis v. Loether*, 22 ill.415 U.S. 189, 94S.Ct.1005, 39 L.Ed. 2d 260 (1974)

distinguished from mere matters of form or procedure, and particularly to retain the common law distinction between the province of the court and that of the jury, whereby, in the absence of express or implied consent to the contrary, issues of law are to be resolved by the court, and issues of fact are to be determined by the jury under appropriate instructions by the court." *Baltimore & Carolina Line, Inc. v. Redman*, 295 U.S. 654, 295 U.S. 657.

The Defendants/Respondents used La. Rev. Stat. Ann. § 14:63.3 as cause to arrest the Petitioners. The Fifth Circuit Court of Appeals and the Western District Court of Louisiana then based their decisions on this case, interpreting the statute in a means that is contrary to previous decisions where there was a violation of the plaintiffs' rights as protected by the Constitution. La. Rev. Stat. Ann. § 14:63.3 is referred to commonly as a "trespass" statute and is typically used to ban an individual from access to property. As applied in this case to the false arrest of the Plaintiffs in the Courthouse lobby, that banned René and Julia Foley Bey from accessing the courthouse, which includes the Office of the Clerk of Court, public document filing areas, courtrooms, and other publicly accessible areas, in violation of the Louisiana Constitution and the rights of the Plaintiffs as protected by the Constitution to participate in the judicial process, access public records, petition the court, etc. The Defendants/Respondents

knowingly used this statute as cause to falsely arrest the Plaintiffs who had committed no crime, as confirmed in the dismissal by the Caddo Parish District Attorney. The United States District Court and Fifth Circuit Court of Appeals then affirmed the use of this statute to grant summary judgment setting precedent for future violations of the Constitution. "The Constitution of the United States is the supreme law of the land. Any law that is repugnant to the Constitution is null and void of law." *Marbury v. Madison*, 5 U.S. 137 (1803).

Citing the opinion of Justice Genovese in *Huval v. State*, 222 So. 3d 665, "More pertinent than jurisprudence are the commands of our constitution. The constitutional guarantee of access to the courts found in Article I, § 22, of the Constitution reads: "*All courts shall be open*, and every person shall have an adequate remedy by due process of law and justice, administered without denial, partiality, or unreasonable delay, for injury to him in his person, property, reputation, or other rights." "Article 1 of the Constitution, the Declaration of Rights Article, 'protects the rights of individuals against unwarrantable government action and does not shield state agencies from law passed by the people's duly elected representatives.' " *Wooley v. State Farm Fire & Cas. Ins. Co.*, 04-882 (La. 1/19/05), 893 So.2d 746, 768 (quoting *Bd. of Comm'rs of Orleans*

Levee Dist. v. Dep't of Nat. Res., 496 So.2d 281, 287 (La.1986) (on rehearing)).

Judge Patricia Minaldi stated, "The problem with utilizing La. Rev. Stat. Ann. § 14:63.3 in this manner—to summarily ban an individual from all public property for an indefinite period of time—is that it can too easily be used as a means of oppression or intimidation." *Vincent v. City of Sulphur*, 28 F. Supp. 3d 626 (La. 2014)

Justice Knoll dissenting states regarding La. Rev. Stat. Ann. § 14:63.3, "...rather, it is simply to demonstrate the potential for the abuse of such statutes, and to remember the importance of viewing with skepticism any governmental attempt to ban individual citizens from either participation in public discourse or access to public places, offices, and services." *State v. Ceaser*, 859 So.2d 648 (La.2003)

"Liberty is at an end if a police officer may without a warrant arrest, not the person threatening violence, but those who are its likely victims merely because the person arrested is engaging in conduct which, though peaceful and legally and constitutionally protected, is deemed offensive to settled social customs and practices. When that day comes, freedom of the press, freedom of assembly, freedom of speech, freedom of religion will all be imperiled. For the exercise of each must then conform to what the conscientious policeman regards the

community's threshold of intolerance to be." *Nesmith v. HD Alford*, 318 F.2d 1 10 (1963)

The courts have an obligation to support and uphold the 1836 United States – Morocco Treaty of Peace and Friendship and the Constitution for the United States of America Republic (North America). The United States District Court for the Western District of Louisiana and the United States Court of Appeals for the Fifth Circuit failed to account for Equity, Truth and Justice in failing to address all of the material facts brought forth in the Plaintiffs' Complaint. The courts erred in their interpretation and application of a statute setting dangerous legal precedent.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

By René J. Foley Bey
ALL RIGHTS RESERVED

René Joseph Foley Bey
c/o 335 Rutherford Street
Shreveport, Louisiana Republic [71104]
Phone: (504) 376-3123
Email: renefoley@gmail.com

By: Julia Mae Foley Bey
All rights reserved

Julia Mae Foley Bey
c/o 335 Rutherford Street
Shreveport, Louisiana Republic [71104]
Phone: (318) 771-1768
Email: juliafoley@live.com