No. _____

In the
Supreme Court of the United States

MARTIN J. ZIELINSKI,

Petitioner,

v.

WISCONSIN LABOR AND INDUSTRY REVIEW COMMISSION (LIRC), LIRC EMPLOYEE AND LAW CLERK, SUE BURNS, AZCO INC., TRAVELERS INS. CO., AZCO AND TRAVELERS REPRESENTATIVE, RICHARD C. DAVIS, SHAWN STEVENS, TEIRNEY CHRISTENSON, BOB MENARD, DR. WARREN SLATEN, WISCONSIN DEPARTMENT OF JUSTICE,

Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

PETITION FOR WRIT OF CERTIORARI

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Petitioner Pro Se

QUESTIONS PRESENTED

DID THE DISTRICT COURT JUDGE AND THE UNITED STATES COURT OF APPEALS JUDGES VIOLATE THE PETITIONERS DUE PROCESS AND EQUAL PROTECTION UNDER THE LAW RIGHT TO A FAIR AND IMPARTIAL HEARING?

DID THE RESPONDENTS, EXCLUDING RESPONDENT WISCONSIN POWER AND LIGHT CO., VIOLATE THE PETITIONER'S CIVIL RIGHTS IN THIS MATTER, UNDER SECTION 1985(2)(3) OF TITLE 42, IN A CONSPIRATORY MANNER?

DID THE PETITIONER HAVE A LEGAL RIGHT IN UNITED STATES DISTRICT COURT TO ADD RESPONDENTS/DEFENDANTS, AURORA HEALTH CARE/LAKESHORE MEDICAL FOR VIOLATIONS OF THE PRIVACY ACT OF 1974 AND THE WISCONSIN CIRCUIT COURT JUDGE AND THREE WISCONSIN COURT OF APPEALS JUDGES FOR VIOLATIONS OF DUE PROCESS AND EQUAL PROTECTIONS UNDER THE LAWS?

PARTIES TO THE PROCEEDING

The Petitioner is Martin J. Zielinski.

Respondents are Wisconsin Labor and Industry Review Commission, Wisconsin Power & Light Company, AZCO Incorporated, Travelers Insurance Company, Warren Slaten, Teirney Christenson, Wisconsin Department of Justice.

STATEMENT OF RELATED PROCEEDINGS

1. Limited Compromise and release. 28 May 2003. Ex. 27

2. Department of Workforce Development Order. 11 June 2014. Ex 53.

3. Labor and Industry Review Commission Order. 23 February 2015. Ex 59.

4. Circuit Court Order. 13 August 2015. Ex. 63.

5. Circuit Court Order. 30 October 2015. Ex. 65.

6. Wisconsin Court of Appeals Order. 29 January 2016. Ex. 68.

7. Wisconsin Court of Appeals Order. 25 October 2016. Ex. 70.

8. Wisconsin Supreme Court ruling. 13 March 2007. Ex. 71.

23. District Court Order. 13 July 2022. Doc 93

24. Seventh Circuit. Case docketed. 2 November 2021. Doc 1.

25. Seventh Circuit Order. 16 November 2021. Doc 9.

26. Seventh Circuit Order. 29 November 2021. Doc 13.

27. Seventh Circuit Order. 1 December 2021. Doc 18.

28. Seventh Circuit Order. 9 December 2021. Doc 21.

29. Seventh Circuit Order. 17 February 2022. Doc 29.

30. Seventh Circuit Order. 18 March 2022. Doc 39.

31. Seventh Circuit Order. 22 March 2022. Doc 41.

32. Seventh Circuit Order. 25 March 2022. Doc 44

33. Seventh Circuit filed Nonprecedential Disposition Per Curiam Affirmed. 13 June 2022 Doc 46.

34. Seventh Circuit Order; Final Judgment filed per Nonprecedential Disposition. With Costs; yes. 13 June 2022. Doc 47.

35. Mandate issued. 5 July 2022. Doc 48.

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Order in the United States District Court for the Eastern District of Wisconsin, 9/3/21 at App. 5.

STATEMENT OF JURISDICTION

Jurisdiction is invoked under 28 U.S.C. §1254(1).

STATEMENT OF THE CASE

Petitioner, Martin J. Zielinski, Pro Se, was seriously injured at the Sheboygan Power Plant, (Respondent, Wisconsin Power and Light Co.) on 10 May 2001, when a many ton piece of steel broke loose and struck the petitioner on the side of the head, breaking bones in my neck and causing permanent damage to my spinal cord. The Petitioner was working for respondent AZCO INC. The Petitioner In a limited Compromise and release agreement with super lawyer, Tom Mullins, Gass, Weber, Mullins, on 28 May 2002, establishes that "Jurisdictional facts are not in dispute and at all times material. The applicant was a maximum wage earner." District Docket 59, exhibit 27. Respondent, Wisconsin Power and Light Co. is only responsible for violation of the federal safe workplace statute. Despite this agreement, officials from Travelers insurance, filed out an Admission to service and Answer to Application form from the DWD, on 21 May 2007, prior to and for the 2008 DWD hearing, and was directly misrepresenting the known and accepted

facts of this case. Doc 59 ex 26a. First, question 5, The accident or disease-causing injury arose out of the alleged employment. The denied box was checked. Question 7, Applicant was temporarily disabled for the period claimed. Denied. A prerequisite for question 7 is to state disability admitted and nothing was admitted. Question 8, Applicant is permanently disabled to the extent claimed, denied. Question 9 The rate of wage claimed is correct. Denied. Question also asks if wage is incorrect, they were supposed to enter a wage if incorrect and entered nothing. These answers by Travelers are in violation of the limited compromise agreement listed above and in violation of:

18 U.S.C. §1038(b), and 18 U.S.C. §1505

Due to the fact that all medical evaluation of the petitioner was completed and decided by the time exhibit was filed on 21 May 2007. The DWD and respondent Travelers had to have been aware of this information.

On, 8 August 2003, respondent and petitioner's treating physician, Dr. Warren Slaten, wrote a letter to petitioner Attorney Tom Mullins stating "I believe he (petitioner) would have difficulty attending any work assignment." Doc. 59, ex 32. Exhibit 56, is a letter from the petitioner to the DWD on 11 June 2015, and before a DWD hearing to overturn a settlement agreement, for fraud upon the court by officers of the court. The petitioner complained to the DWD about respondent, Dr. Warren Slaten, slandering the petitioner in the official DWD record. The DWD did not take notice and did not respond. No

investigation into this felony ever took place by the Wisconsin Attorney General's Office. After this letter was written, respondent, Dr. Slaten, began a campaign of slander and misrepresentation in the official DWD record in violation of 18 U.S.C. §1038(b). See Doc 59 ex. 38-43. Respondent, Dr Slaten, made egregious and slanderous comments for the DWD record throughout the time that the doctor treated the petitioner, and after he wrote the letter stating that "I believe he wouldn't be able to attend any work assignment". Attorney Mullins called the petitioner into his office to let me know that respondent, Dr. Slaten, is stating that I golfed and chopped wood. I never ever told this doctor that I golfed or chopped wood. What I did say was that I could not swing a golf club without pain and escalating headache and that before I got hurt I split a lot of wood by hand. Respondent, Dr. Slaten, slandered the fact that I was getting better which never happened. The petitioner was further injured by Dr Slaten who gave me deep facet injections directly where my neck was broken and spinal cord was damaged. I notified Attorney Mullins the next day that the doctor's treatment made the severe pain and headaches worse. Both surgeons who reviewed Dr. Slaten's record communicated to me that it was reckless for the respondent doctor to inject steroids into a compound fracture in my neck. The treatment was terminated and the petitioner's Attorney Mr. Mullins communicated to me that he will handle respondent, Dr. Slaten, when we go to DWD hearing for full disability benefits.

In 2008, at DWD hearing, the Petitioner, and witness Joe Zielinski, the Petitioner's son, received a communication from Attorney Jane Cuthbert that we were going to sue AZCO Inc. and Travelers Insurance Co. for bad faith, (for not paying the petitioner a weekly compensation as required by workers compensation law), for full and permanent disability benefits for life, and for several OSHA safety violations. Attorney Cuthbert communicated to the petitioner and his son that my case was worth approximately 789 thousand dollars. The petitioner and his son also witnessed Ms. Cuthbert communicate to respondent, Davis that we intended to sue AZCO INC. and Travelers Insurance Co. for bad faith, full benefits for the entire lifetime of the petitioner and OSHA safety violations. See Doc. 59, ex 55., Filed on 30 August 2012, in this exhibit petitioner answers respondents third motion to dismiss which notifies DWD about communication between Attorney Cuthbert and respondent Davis as mentioned above. The DWD again refuses to act according to rules of professional conduct for attorneys concerning communications. Doc. 59 ex 54, filed on 19 March 2012, is the petitioner's response to respondent's second motion to dismiss notifying the DWD that contract fraud occurred. In violation of the petitioner's Due Process and equal protection under the law rights. After this witnessed communication between Ms. Cuthbert and respondent Davis, Attorney Cuthbert left the firm and Attorney Mullins become Ill. Respondent Davis began filing letters with the DWD on 3 May 2010, Doc. 59 ex 25, stating. "A limited Compromise was previously approved in June 2008. At that time there was no medical

support for a claim of PTD/LOEC". This statement was a misrepresentation of the known medical facts at that time, violating 18 U.S.C. §1038(b) and 18 U.S.C. §1505. Respondent Davis intentionally ignored a direct communication from Attorney Cuthbert in violation of the Rules of Conduct. Respondent Davis continues to misrepresent material facts by stating in another letter to the LIRC, filed on, 15 January 2015, and before DWD hearing to overturn the settlement agreement for fraud. Davis states, "There is credible, factual, medical, and vocational evidence to support the ALJ's findings in favor of the respondents and dismissal of the applicants claims." Doc. 59 Ex 35. This is a blatant deviation from the truth, misrepresentation, and perjury in this matter because it is an official document to the DWD. All medical evaluation was complete at this time, and doctors and vocational experts from both sides came to the conclusion that the petitioner is completely and permanently disabled. See; Doc. 59, ex 1, (Petitioners vocational expert Dr. Tim Riley) and respondent's expert, Dr. Campbell, Doc. 59, ex 36 and 37. Please take note that these many documents Davis filed with the DWD proved that the DWD was complicit by knowing full well that Davis was misrepresenting the official record. Doc. 59 Exhibit 24, is an email from Attorney Mullins to petitioner, written on 1 March 2010 (and before the first DWD hearing for full disability benefits), stating that "we were going to DWD hearing for full disability benefits for the rest of the petitioners life". This fact proves where the petitioner's legal rights stood.

The petitioner's Attorney Tom Mullins became ill in early 2010 and Ms. Cuthbert left the firm. Mr. Mullins turned the case over to respondents Shawn Stevens and Teirney Christenson communicating to the petitioner that Mr. Mullins would still be tracking the case from home. Stevens and Christenson began claiming to the petitioner that it didn't matter what Mr. Mullins or Ms. Cuthbert communicated to me they were now in charge of my case, that I had a weak case and I could go to DWD hearing and not get a dime. (After 10 years) At this time petitioner did not know about the letter that Dr. Slaten wrote to Attorney Mullins in 2003 communicating for the record that "I wouldn't be able to attend any work assignment." Doc. 59 ex 32. Or the missing Dr. Block's final report mentioned above. Doc. 59 ex 33. This last Dr. Block report was on 21 December 2006. The importance of this medical record is that at this last appointment the petitioner had with Dr. Block, the Doctor put the latest ct scan I brought and put it on a lighted board side by side with the ct scan taken a year and a half earlier. The doctor gave me a tape measure and had me measure the damage to my spinal cord on each of the ct scans. The latest ct scan was 3/16ths of an inch more damaged than the one taken a year and a half earlier. Dr. Block communicated that it meant that the damage to my spinal cord was not hereditary, but damage caused by this accident, that was getting worse. The petitioner in this evaluation process had to visit the Insurance company's Doctor Novem. At this visit I explained the fact about measuring the damage between the two ct scans. When Doctor Novem made his report, there was no mention of this

very important communication in his official report to the DWD, see Doc 59 ex. The petitioner could not get in touch with Attorney Mullins.

The petitioner and his son Joe then attended a settlement conference at the law office of Bob Menard where respondents Christenson and Menard both stated that I could go to hearing and not get a dime due to the testimony of Dr. Slaten. The petitioner knew that if he could prove fraud upon the court by officers of the court he could have any settlement overturned. The petitioner chose that route to get family paid back. Respondent Stevens is also responsible for sending to the DWD a Certificate of Readiness and Request to Schedule a Hearing or Settlement Conference form. On that form Stevens misrepresents facts which were not part of the DWD record. One question asks if the petitioner can travel 100 miles and Stevens states "yes." The travel restriction was 20 Miles set by Dr. Slaten. The petitioner notified Mullins that even if the restriction was 20 miles the petitioner would experience escalating pain and headaches making it impossible to attend any work assignment. In another he's asked if there were any safety violations. Stevens answers "no" in violation of 18 U.S.C. §1038(b) and 18 U.S.C. §1505. The petitioner believes that respondent Stevens did this to justify the illegal settlement agreement he procured.

After the settlement I discovered that Respondent's left off the DWD record the last doctor's report from my surgeon, Dr. Spencer Block. Doc. 59 ex 33. I discovered that Dr. Block stored this last report from the medical record with a company in

Georgia for safekeeping and couldn't possibly have been part of the DWD record when the settlement was signed. DWD law, 102.23, is clear that the petitioner's medical information is required by law to be in the petitioners file when this settlement is reached. This is how respondents were able to claim that the petitioner could go to DWD hearing and not get a dime. They concealed from the record these two reports, violating, 18 U.S.C. §1001 (1), (2), 18 U.S.C. §1038(b) and 18 U.S.C. §1505. This is contract fraud. It is also part of this Georgia companies record that respondent Davis tried to access the petitioner's last Dr. Block report, ex 33, illegally and without the petitioner's authorization. Respondent Davis again violates The Privacy Act. This fact was proven in Doc. 59, exhibits 2-8. Exhibit 9 is Davis filing the illegally obtained medical information with the DWD making the DWD complicit because there was no authorization attached to this filing from the petitioner as is required. Aurora Health Care and Lakeshore Medical Clinic were liable for releasing my medical info without authorization from the petitioner. Aurora Health Care did an investigation into this breach of my medical records and they finally came clean. Doc 59, ex 10-16. The petitioner included exhibit 17, which proves that Aurora/Lakeshore gave respondent Davis more medical information than was authorized by Gass, Weber, Mullins. Doc. 59, ex 19, Davis filed the petitioners illegally gotten medical information from Lakeshore Medical Clinic, on 27 May 2014 to the DWD. Filing reads; "The respondents adopt and incorporate all their previous filings to stand as exhibits. In addition, enclosed for filing by

respondents please find the following; 1) Copies of select certified medical records from Lakeshore Medical Clinic 2/8/13 and 3/24/14. This release of my medical records to the DWD is shown Doc. 59 ex 18, Workers Compensation Hearing exhibits, received. Respondents Davis was trying to illegally influence the DWD with medical information that was illegally obtained under Privacy Act Rules. Davis had no authority to posses my medical information much less file it with the DWD. By that time all medical analysis of the petitioner had already taken place and this upcoming DWD hearing only had one issue to decide, and that was to overturn the settlement agreement for contract fraud. DWD knew this fact and allowed illegally gotten medical information to become part of the DWD record. The petitioner fired Stevens and Christenson and requested the file. See Doc 59 ex 48. The request was sent back to me. Again I made the request to the law firm, they were working for, and got just a few documents out of a two foot stack that Attorney Mullins had when I met him in 2007. In a, 15 November 2012, letter to the DWD, Doc 59 ex 48, the petitioner notified the DWD that former Attorneys and respondents Stevens and Christenson failed to provide the complete legal file to the petitioner as required by the Rules for Conduct for lawyers. The DWD did not respond.

The petitioner wanted a hearing to overturn the settlement for contract fraud and was not aware that the petitioners DWD record was missing those two medical documents. The DWD hearing was rigged in a number of ways. ALJ, Angela McKensie, asked respondents Davis, Christenson and Menard,

at a 2014, DWD hearing, if all the petitioners medical information was part of the record and they answered "yes". The rigged part came when she had the court reporter turn off the recorder before the question was asked and had it turned back on after they answered. Violation of 18 U.S.C. §1505, Obstruction of Justice, and a good reflection of the way the entire hearing was conducted. My objection was ignored. I wasn't able to say anything about anything without being cut off by the judge. My son and I witnessed the respondent's 'yes' answer. Inconsistencies in the fact finding of Mckensie are in dispute and mentioned in the exhibits, Doc. 59. Ex 57. The DWD completely ignored contract fraud. Petitioner wrote a letter to the DWD complaining that my due process right to a fair hearing was violated by Mckensie for not addressing the reason I was there. The DWD also destroyed or concealed a brief with no investigation by the DWD or the Wisconsin Department of Justice into the matter. Doc. 59 ex 49. The DWD covered up the matter by not giving the petitioner the complete DWD record. The petitioner provided the DWD with the proof of service for the destroyed, mailed brief. There seemed to be no ramification for both, my former respondent attorneys and the DWD, for not providing the entire record to the petitioner. How was I supposed to argue my case without it?

The petitioner then appealed to LIRC. Doc 59 ex 57 is a letter sent to the DWD complaining about how the 2014 DWD hearing was officiated by ALJ Mckensie, involving a complete lack of due process. This complaint was 13 pages with 3 emails from

Attorney Mullins confirming the direction that the petitioner's case was going. The DWD did nothing. After this hearing is when the petitioner discovered that the last doctors report from Dr. Block was never made part of any record because it was stored in Georgia. I notified LIRC in a brief twice, see Doc 59 ex 62, all the petitioner's medical information was not in the LIRC record. Doc. 59 ex 58. LIRC did nothing in violation of my due process and equal protection under the law rights, obstruction. See LIRC order filed 23 February 2015. Doc. 59, Ex 59.

The petitioner then appealed LIRC's order to the circuit court. In the process of filing summons and complaints for all respondents, the petitioner called LIRC law clerk, Sue Burns, wanting a clarification of LIRC procedure. The petitioner's time was running low. I was confused, had a terrible headache and severe pain from this accident, and wanted to make sure that I got the procedure correct. I communicated to Ms. Burns that I just finished preparing the summons and complaints and wanted to know the next correct LIRC procedure. Burns communicated two incorrect procedures to the petitioner. First she told me to send the complaints to her and then told me that LIRC would serve the respondents, which I did. Burns, failed to give me the correct procedure of getting the summons and complaints authenticated first, violating her duties as a law clerk. The complaints weren't authenticated first, and the respondents were never served. The petitioner cites:

> 18 U.S.C. §1505 "Obstruction of Justice and 18 U.S.C. §1038(3).

The circuit court judge claimed in its order that I didn't have a right to ask the clerk for the correct procedure. See Doc 59 ex 63, Circuit order. Petitioner appealed to Wisconsin Court of Appeals and was asked to come in and inspect the circuit court record. To my disbelief the record from LIRC was not on the docket. The petitioner immediately filed motion to have the LIRC record part of the circuit court record and was denied. Doc 59 ex 65. The petitioner filed an appeal with the court of appeals and motioned that court to include the LIRC record for appeal but was denied by that court. This was despite the fact that the petitioner cited the Wisconsin statute stating that LIRC must forward the record to the appealing court. Petitioner cites:

> Wisc. Statute 102.23 Judicial review, (1)(a) The finding of fact made by the Commission acting within its powers shall in the absence of fraud be conclusive. Wisc. Statute 227.55 provides in relevant part; within 30 days of the service of petition for review upon the agency, or within such time as the courts allow, the agency shall transmit to the reviewing court the original or a certifies copy of the entire record of the proceedings in which the decision under review was made, including all pleadings, exhibits, findings and exceptions therein…(emphasis added), along with the law that made this rule mandatory,

> Wagner v. Wisconsin Medical Board,
> 181 Wis 2d 633 (Wis. 1994).

Also See Doc 59 ex 64, plaintiff motion to include LIRC record citing Wagner, and exhibit 65, the circuit court order denying motion to include LIRC record. Doc 59 ex 68 is the court of appeals order denying plaintiff's motion to supplement and correct with the LIRC record. The denial of this motion is obstruction. The petitioner exhausted all state options when the Wisconsin Supreme Court refused to hear my complaints. The petitioner made it clear to the Wisconsin Supreme Court that the law was violated in the above respect and they did nothing. An affidavit from respondent Ms. Sue Burns, states that she made return to the circuit court the record from the Commission (LIRC) dated 2 April 2015, see doc 59 ex 59(a). This affidavit is a misrepresentation and an act of perjury, that violates 18 U.S.C. §1038(3). Reviewing the circuit docket you can see that the LIRC record is not part of the docket, see Doc. 59 ex 60, the record for the circuit court assembled by the clerk, filed on, 2 November 2015. Obstruction is why the petitioner served the state court judges who were part of this conspiracy and did not respond to the direct allegations of this complaint within the time required for them to do so.

It is important to note that when the petitioner requested the entire file of my case, respondents and former attorneys Stevens and Christenson refused to give the petitioner the file. It was missing emails and documents listed above. The DWD also left off the record the report by ALJ Konkel, Doc 59 ex 51, which should have addressed the issue of the missing brief

but did not. There was no mention in the record, the DWD provided to the petitioner, concerning the missing brief. This report was missing page 3. See Doc 59 ex 49, Petitioner notifying DWD a brief was missing. Destroying a brief is a felony. On another report by ALJ Konkel, Doc 59 ex 50 reported an incorrect wage of 970 when the full wage amount of 2500(maximum wage earner) was already decided in 2003 ex 27. On a Workers Compensation Division Hearing worksheet, ALJ Nancy Schneiders wrongly lists the petitioners wage as 970.00, which again violates 18 U.S.C. §§1038(b), 1505. The record reflects the fact that Travelers Insurance Co. was directly involved in this conspiracy, Doc 59 ex 28, which is an Admission to Service and Answer to Application form that that Travelers had to fill out prior to the DWD hearing for full disability benefits filed with the DWD on 3 May 2010. On this form the respondent states as follows' Question 1. The accident or occupational exposure occurred as alleged? Denied. 4. At the time of the alleged injury, the employee was performing service growing out of and incidental to employment? Denied. 5. Accident or disease causing injury arose out of the alleged employment. Denied 6. Notice of injury was given to employer within 30 days/ 2 years of alleged injury? Denied. 7. Applicant was temporarily disabled for the period claimed? Denied. (no disability stated). 8. Applicant is permanently disabled to the extent claimed? Denied. (no disability claimed). 9. The rate of wage claimed is correct? Denied. (no state wage admitted) 12. Describe any matters in dispute not already noted above and state all reasons for denying liability not already noted above. "Nature and extent

of injury" is Travelers reply. This is obstruction of justice, due to the fact that all "jurisdictional issues have been decided and are relevant, at all times, as listed on page one. This document, which the DWD requires that the insurance company complete, is blank, when asked who the respondent attorney is. This is not an accident as Travelers is represented by Respondent, Davis, representative of Travelers Insurance Co. and AZCO INC. and is directly involved with the misrepresentation of the facts on this questionnaire. DWD is complicit due to the fact that they allowed this important document to be filed without the respondent's attorney listed as required. Violation of 18 U.S.C. §1038. Doc 59 ex 9 is a letter from Davis to Schneiders, filing illegally obtained medical information, on17 August, 2010, "Copies of certified medical records from Lakeshore Medical Clinic dated 2 February 2009, 11 December 2006 and 12 December 2006. Why is respondent filing any kind of medical information at this point in time, when all medical information was complete for the 2008 DWD hearing? Another violation of 18 U.S.C. §§1038(b), 1505. On Doc 59 ex 4 explains; "This authorization is given upon the express understanding that the person or firm authorized to inspect or obtain copies shall provide copies of all materials obtained through the use of this authorization to the patients attorney, Gass, Weber, Mullins, LLC, within 10 days of receipt. It is agreed by the authorized person or firm that the use of this authorization constitutes assent to such conditions. 5 May 2010. (From Lakeshore Medical Clinic.) Davis violated the terms of this understanding by taking more medical information than he was allowed. Doc. 59 ex 5, Letter from Gass,

Weber, Mullins, to Lakeshore Medical Clinic, Oak Creek, "Please send photocopies of his records for the time period 2010 to present only filed on 4 August 2010." This proves the point that Davis was only allowed access to medical records from "2010 to present", but Lakeshore and Davis both violated this stipulation in violation of Privacy Act Rules and 18 U.S.C. §§1038(b), 1505. In another letter from Davis to Dr. Paul Robey, petitioners treating Doctor, Doc 59 ex 6, trying to bypass the before mentioned stipulation, Davis makes a request for all the patient's medical records from Dr. Robey in violation of this stipulation. Dr. Robey, having full knowledge of this stipulation, provides the respondent Davis with the patient's medical information that Davis was not allowed to access, in violation of the privacy act and 18 U.S.C. §§1038(b), 1505. Dr. Robey is now complicit in violation of these before mentioned rules. In support of these allegations the petitioner cites letter from Davis to Attorney Cuthbert, stating she refused to provide respondent with signed medical authorizations from the plaintiff" filed 1 November 2007. At this point the medical evaluation was over and Ms. Cuthbert did not need to give Davis any more of the patient's medical information. Davis defied this memorandum and violated the Privacy Act, 18 U.S.C. §§1038(b), 1505.

REASONS FOR GRANTING THE PETITION

Concerning the petitioner's right to sue the State and its officers for violation the petitioner's due process and equal protections under the law rights and have this state court ruling overturned in federal court, the petitioners cites:

> The state cannot cause a federal violation and, and then try to prohibit litigants from seeking redress in federal courts for those same violations(I e the state cannot violate our fundamental rights , and then try to have us dismissed out of federal courts for seeking vindication of those rights) " We have long recognized that a state cannot cause a transitory cause of action and at the same time destroy the right to sue on that transitory cause of action in any court having jurisdiction", Tennessee Coal, Iron & R, Co. v. George, 233 U.S. 354, 360 (1914) cited in Marshall v Marshall (2006). "Judges oath of office includes the undertaking to uphold the laws and Constitution of the United States. Any Judge violating such undertakings loses jurisdiction, resulting in his orders being void, and he himself commits a treasonable offence against the United States."

The State court Judges violated known Wisconsin law which mandates that LIRC forward the record to the appealing court within 30 days of complainant filing an appeal. *Wagner v. Wisconsin Medical Board* is the law which states that this law is mandatory and not at the discretion of the circuit judge. This is a direct act affecting the petitioner's due process and equal protection under the law rights.

> [When a judge acts intentionally and knowingly to deprive a person of his

> Constitutional rights he exercises no discretion or individual judgment; he acts no longer as a judge but as a "minister" of his own prejudices. Supremacy Clause, Article V1, clause 2 of the United States Constitution [386 U.S. 547,568]. A judge is liable for injury caused by a ministerial act; to have immunity the judge must be performing a judicial function. See e.g. Ex Parte Virginia, 100 U.S. 339; 2 Harper& James, The Law of Torts 1642-1643 (1956). The presence for malice and the intention to deprive a person of his civil rights is wholly incompatible with the judicial function and fraud upon the court also does not support the judicial function.

This is why the petitioner filed this 42 U.S.C. §1985(2)(3) civil rights lawsuit to begin with in federal court. The intentional part for these state court judges is the fact that the petitioner motioned them to right the record and get the LIRC record to the appealing court, they refused.

> A judge is an officer of the court, as well as are all attorneys. A state judge is a state judicial officer, paid by the state to act impartially and lawfully. A federal judge is a federal judicial officer, paid by the federal government to act impartially and lawfully. State and federal attorneys fall into the same general category and must meet the

same requirements. A judge is not the court. People v Zajic, 88 Ill. App. 3d 477, 410 N.E. 2d 626(1980).

Whenever an officer of the court commits fraud during a proceeding he/she is engaged in "fraud upon the court." In Bulloch v United States, 763 F 2d 1115, 1121 (10th cir. (1985), the court stated "Fraud upon the court is fraud which is directed to the judicial machinery itself and not fraud between parties or fraudulent documents, false statements or perjury….It is where a court or a member is corrupted or influenced or where a judge has not performed his judicial function---thus where the impartial functions of the court have been directly corrupted."

"Fraud upon the court" has been defined by the 7th Circuit Court of Appeals to "embrace that species of fraud which does, or attempts to, defile the court itself, or is fraud perpetrated by officers of the court so that the judicial machinery cannot function in the usual manner its impartial task of adjudging cases that are presented for adjudication." Kenner v C.I.R., 387 F3d 689(1968); 7 Moore's Federal Practice, 2d, p. 512, 60.23. The 7th Circuit further stated "A decision produced by fraud upon the court is not in essence a decision at all, and never becomes final."

> Under Illinois and federal law, when any officer of the court has committed, "fraud upon the court", the orders and judgments of that court are void, of no legal force or effect.
>
> The petitioner further cites;
>
> 18 U.S.C. §241 Conspiracy against rights; And;
>
> 18 U.S.C. §242 Deprivation of rights under color of law….

The petitioner believes that these rules apply to all judges involved in this matter, along with all mentioned respondents.

The petitioner would like to reference the United States Court of Appeals docket 18. This court made a ruling on 1 December 2021 which stated in part; "Appellant appeals the district court's order of September 3, 2021- a sanctions order against appellant, ordering " that the Clerk of Court shall return unfiled any document that plaintiff attempts to file under this case number (Case No. 2;17-cv-471) except for an appeal and any papers related to such appeal", and also ordering appellant "to stop serving papers relating to this case upon other parties until further notice to the contrary." That order is appealable, and appellant's notice of appeal referencing that order is timely in light of the district court's September 29 2021 order granting an extension of time to appeal. It appears, therefore, that this court has jurisdiction over appellants

appeal." The docket has no mention of the fact that the Court of Appeals ordered that the case is appealable. Only the briefing schedule is announced. App. Doc. 18. This is an unfair manipulation of the true intentions of the Court and those intentions are concealed in this manner. This is obstruction of justice.

> 18 U.S.C. Sec. 1503 defines "Obstruction of Justice" as an act that "corruptly or by threats or force, or by any threatening letter or communication, influences, obstructs, or impede, or endeavors to influence, obstruct, or impede, the due administration of justice." I hope this "obstruction" is an obvious fact to this highest court.

The same type of obstruction took place in the district court if you notice the entry Doc. 59, see copy. The petitioner filed 73 exhibits on, 8 August 2120. The docket entry states that there are 2 exhibits. How is this a true reflection of the record in either of these dockets listed above? There is only one way legally possible for the U. S. Court of Appeals to rule that the petitioner's case is "frivolous" or "meritless", under the definitions of those words, and that is if the 73 exhibits were never forwarded to the Court of Appeals in some sort of way, shape, or form by the district court. The petitioner visited the federal courthouse before my appeal to check the docket. I asked the clerk why the docket only reflects the fact that the docket only lists 2 exhibits and her response was "that's the way we do it." This important issue was out of my control. This docket was manipulated

by an interaction between the district court judge and the Clerk of Courts to deceive the petitioner and the public.

American Bar Association; Canon 3, A judge should perform the duties of the office fairly, impartially, and diligently; (B) Administrative responsibilities; A Judge shall not direct court personnel to engage in conduct on the judges behalf or as the judges representative when that conduct would contravene the code if undertaken by the judge. The duty under Canon 2 to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary applies to all judges activities, including the discharge of the judge's adjunctive and administrative duties. The evidence is clear that both the district court and the court of appeals violated the above mentioned Canons, by influencing the clerks. This is obstruction. Coming back to the Clerk of Courts for the district court after the Court of Appeals ruled that the petitioners case was "frivolous" and "meritless" I asked the district Clerk if she saw anywhere on the docket where the 73 exhibits were filed and her answer was "no." Coming back a third time I finally did see the exhibits in docket 59 but I noticed that the exhibits lacked a stamp from the Clerk on page one. (The petitioner includes his clerk stamped copy) The petitioner hand delivered the exhibits to the Clerk and personally witnessed the clerk stamp the first page of both the clerks copy and mine. There was no stamp on the first page of the petitioner's exhibits, on the docket, on the courthouse computer, and this should raise alarm bells for the Supreme Court as it

did for me. The petitioner argues that the first page should have been stamped and when it wasn't I believe this docket entry was manipulated and these judges impartiality must come to light.

The petitioner filed suit in federal court on March 17, 2017, against the defendants for conspiracy against rights. The petitioner made it clear that this case involved "Officers of the court committing fraud upon the court," by all parties except Respondent Wisconsin Power and Light. There is no statute of limitations for this matter. Due to the severe pain and constant headaches the petitioner suffers from this accident, the petitioner asked for some sort of help to avoid procedural misunderstandings and mistakes, along with extra time. I stated that I knew that there was no appointment of counsel in civil matters but noticed that other federal jurisdictions consider a court clerk for citizens having to defend themselves when they have problems understanding procedure. The Seventh Circuit was one of those courts but refused my request. The petitioner motioned the district court for extra time and some sort of procedural help and was denied for "failure to state a claim in which relief can be granted."

> FRCP Rule 1, These rules govern the procedure in all civil activities and proceedings in United States District Court, except as stated in Rule 81. They should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action.

To me this is the first sign of the appearance of bias and prejudice due to the fact that the district judge could have gathered all parties together to see if the defendants objected to the specifics of the allegations of the complaint. The district judge did not, defeating the purpose of the Scope of the Rules of Civil Procedure. The petitioner put the district court on "notice" that "fraud upon the court by officers of the court" has occurred in this matter. The district court also made the ruling "without prejudice." When a lawsuit is dismissed without prejudice, it signifies that none of the rights or privileges of the individual involved are considered to be lost or waived. Therefore the words "without prejudice" protect the plaintiff from the respondent's res judicata defense. Court orders in cases impacted by fraud often show subject matter jurisdiction failings or denials of due process and equal protection under the law rights.

> The district court dismissed the petitioner's complaint for failure to state a claim. A reviewing court must therefore assume that the allegations in the complaint are true and may affirm the dismissal only if the petitioner clearly could prove no set of facts that would entitle him to relief. See Hartford Fire Ins. Co. v. California, 509 U.S. 764, 811(1993). Also see:
>
> In Conley v Gibson, 355U.S. 41(1957) the Supreme Court stated that interplay between Rule 8(pleading) and Rule 12(b)(6) as follows; "[T]he accepted Rule [is] that a complaint should not be

> dismissed for failure to state a claim unless it appears beyond a 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. In Bell Atlantic Corp. v Twombly, 55 U.S. 544(2007) the court noted questions raised regarding the " No set of facts test" and clarified that " Once a claim has been stated adequately , it may be supported by any set of facts consistent with the allegations in the complaint." Id at 563, it continued; "Conley, then, described the breath of opportunity to prove what an adequate compliant claim, not the minimum standard of adequate pleading to govern a complaints survival!" id in Ashcroft v Iqbal, 556 U.S. 662(2009). The court further elaborated on the test, including this statement "to survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." Id at 1949(citation omitted)

The petitioner explained the allegations in excruciating detail for the Court of Appeals just as I did for this Court. The petitioner cited many references to the district exhibits that I filed so there is no excuse for them not to realize that something doesn't make sense. It appears as if the court did not assume that the allegations of the complaint were

true in violation of this law. The petitioner believes that the district judge took full advantage of the fact that both the petitioner's former respondent attorneys and LIRC did not provide the petitioner with the entire legal file in violation or the Rules of professional conduct for attorneys and rules that mandate LIRC forward the record. The petitioner argues that these obstructive acts have more than the appearance of impartiality, bias and prejudice. I kept the district court informed of the fact that I was trying to get the record from the DWD and had to ask multiple times. I knew the record was incomplete due to the fact that nothing in the record, the DWD gave the petitioner, mentioned anything about the missing brief. During this time waiting for the record, (months), I also asked Aurora Health/Lakeshore medical do an investigation on violations I discovered in part of the record supplied by the DWD. FRCP Rule 19 told me that parties must be added. I then served the circuit and court of appeal judges in their individual capacities and Aurora/Lakeshore and none responded directly as required by law. The petitioner had problems understanding the service process. The petitioner hired Cream City Process and got all defendants served, except respondent Davis, who I was told refused process. The four state court judges also were served along with Aurora/ lakeshore. The petitioner notified the District court of this fact.

On 8 August 2020, the petitioner attempted to open the matter and filed a civil rights claim, filing 73 exhibits and an affidavit completely explaining every exhibit. The clerk filed this as a pleading, instead of as the affidavit it was, in support of the

allegations. The petitioner waited for the respondents to respond and none did to the direct allegations, including the Wisconsin Attorney General. The petitioner did not see this attached affidavit on the computer. In the petitioners attempt to reopen, I filed a motion for summary judgment and a motion to overturn the state court judgment procured by fraud citing FRCP Rule 60(3). The district judge ruled against the petitioners case reopening, stating in his order that rule 60 only applies to cases in the federal court system. I later learned from a Duke University law article, *Judgments: Fraud as a Basis for Relief in Federal Courts from Final State Court Judgments*, 109 Duke. L.J. 109-116 (1964), final judgments frequently are not accorded the finality the term suggests, and there binding effect may be eviscerated in a number of ways;

> The final effects of judgments may be voided by a new trial; altering, amending, or vacating the judgment; moving for judgment notwithstanding the verdict; Appeal; setting aside for mistake, inadvertence, surprise, excusable neglect, Newly discovered evidence, or fraud; or joining enforcement, See Federal Rule 60(b); 3 Freeman, Judgments Section 1178 (5th ed. 1925)

> It appears as if the district court judge intentionally cited the law wrongly. There's no doubt that there is a pattern here. This is bias and prejudice and signs that the district court judge could

be mentally disabled. The petitioner yields to that possibility and has refrained from using his name in this petition for that reason. The petitioner firmly believes that these are direct actions by the district court judge violating the rules, intentionally! This is clearly obstruction of justice in full violation of his oath of office and the rules that govern his profession. The judge knows what he signed up for, upholding the Constitution and the bill of rights, through his oath to office. The district court ruling, Doc 65, is the district court order denying this Rule 60(3) motion, directly obstructing justice. The petitioner later learned that Rule 60(d)(3) is also equally applicable, so I tried to use this Rule 60(d)(3) to set aside a judgment for fraud upon the court, along with a motion to add parties and summary judgment, and the civil rights claim under 18 USC 1985(3) as a cause of action. The absolute most sickening part of these recent filings is that the Attorney General is motioning the district court for "sanctions and joinder to motion for sanctions". Doc 72. This is pathetic behavior, due to the fact that when the petitioner requested the entire legal file for this matter from the DWD, the Attorney General had to be in control of what the DWD actually released to the petitioner. This is why,

as I mentioned above, that it took multiple requests to the DWD to get the whole record, and as I proved in my exhibits, never provided the entire record to the petitioner, hiding the fact that the DWD committed a felony by destroying the petitioners brief along with the many other infractions explained above. Concerning the Attorney General's Office, the petitioner cites:

28 USC Section 1343, Civil Rights and Elective franchise(a) The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person: (1) To recover damages for injury to his person or property, or because of a deprivation of any right or privilege of a citizen of the United States, by any act done in any furtherance of any conspiracy mentioned in Section 1985 of Title 42; (2) To recover damages from any person who fails to prevent or to aid in preventing any wrongs mentioned in section 1985 of Title 42 which he has knowledge were about to occur and power to prevent; (3) To redress the deprivation, under color of any state law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of

> Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States; (4) To recover damages or to secure equitable or other relief under any act of Congress providing for the protection of civil rights, including the right to vote.

The Attorney General had knowledge of the obstruction of justice by the respondents and had the power to prevent. This is intentional obstruction of justice by the top legal authority in the state of Wisconsin.

The district court judge issued a text only order signed on, 17 June 2021 stating; "Defendants and any other punitive party, including those parties the plaintiff has moved to add (such as state court judges, see ECF No. 67), are NOT obligated to respond to plaintiff's filings dated 4/19/21 or any further motion, summons, or paper filed subsequent to this order: This case remains closed. Separate order to follow. In this next order the district judge states that Plaintiff motions for a civil rights claim, to add parties, and to include past filings 66, 67, & 68 are denied. The unopposed motions for sanctions 72 &73 are granted in part. The Clerk of Court shall return unfiled any document that plaintiff attempts to file under this case number (Case No 2:17-cv-471) except for an appeal and any papers related to such appeal. Plaintiff is ordered to stop serving papers relating to this case upon other parties until further notice to the contrary. (all counsel and mailed to Pro Se party.) The Seventh Circuit is correct in ruling that this case is appealable due to the district judge's

actions in this matter. Let's be honest here, the only reason that the district judge started abusing his rights as a judge is when the petitioner wanted to add parties, state court judges and Aurora Health/Lakeshore medical. (the judge could no longer remain impartial.) His many direct acts mentioned above prove this impartiality. The judge furthered his illegal agenda by not allowing the petitioner to file papers with the Clerk, Doc 78 and 80., including a motion to vacate the fraudulent state court finding. The Judge had not made a final ruling in this matter, and the case had no statute of limitations, so the petitioner views this as another direct act in the furtherance of obstruction of justice and this conspiracy. The judge again denied the petitioner his right to be heard. As soon as I knew for certain that Rule 60 applied to my case, I tried to inform the judge, but the judge would not allow the petitioner his right to be heard. If the petitioner can add the district court judge to this lawsuit over his illegal actions, that had no basis in law, then I would like very much to do just that. The judge denied the petitioner his right to be heard in violation of my due process rights and equal protection under the laws protected in the 14th Amendment to the United States Constitution. The right to a hearing resides in both the sixth and fourteenth Amendments to the United States Constitution. A right to a hearing entails that an individual maintain and be afforded the legal right to be heard in the venue of a court of law with adequate Due Process attached. There is no due process in this matter and the Seventh Circuit was absolutely correct in the fact that this case is "appealable." APP. Doc 18. The petitioner did not

know what he was legally doing wrong and thought that I was just missing the right Rule 60 application so I also tried Rule 60(d)(3), and asked for the judge to recues himself. The petitioner cites:

> Should a judge not disqualified himself, then the judge is in violation of the Due Process Clause of the U.S. Constitution. United States v Sciuto, 521 F 2d 842, 845 (7th Cir 1996) ("The right to a tribunal free from biased and prejudice is based, not on Section144, but on the Due Process Clause.")

Courts have repeatedly ruled that judges have no immunity for their criminal acts. Since both treason and the interference with interstate commerce are criminal acts, no judge has immunity to engage in such acts.

The clerk failed in their duty to file all documents in support of a claim that had no statutes of limitations. I firmly believe that the judge illegally pressured the clerk in this matter in violation of the rule listed above. The petitioner cites all pertinent Amendments to the Constitution and its protections in this matter.

In this matter, it is the deprivation of rights associated with receiving full disability benefits for my entire lifetime and the right to sue for bad faith, and safety violations related to the accident clearly fall within the ambit of the statute.

Pro Se Litigants may be entitled to Attorney fees and costs under the Civil Rights Attorney Fee Award Act of 1976, 90 Stat. 2641, as amended 42 U.S.C. §1988.

The petitioner served the Wisconsin Judges in their "individual capacities" for violation of the laws and Aurora/Lakeshore for Privacy violations.

On 8 August 2020, the petitioner attempted to reopen the case by filing 73 exhibits with an affidavit that fully explained each and every exhibit, and with a motion for relief of the state court judgment and summary judgment against all respondents, see Doc 59. These motions were denied. This is a strong indication to not only the appearance of impartiality, bias, and prejudice, but direct and intentional acts in furtherance of this conspiracy. The petitioner could not comprehend what I was deficient in procedurally. Understanding more and more the law as time went on, the petitioner filed what he suspected was the right law which was my filing of a civil rights claim. See Doc 66., and a motion to add parties under Rule 19 which requires that I shall add parties under this rule. Finally;

> "This Constitution, and the Laws of the United States [and treaties] which shall be made in pursuance thereof;….Shall be the Supreme Law of the Land." Supremacy Clause, Article 6, Clause 2 of the United States Constitution and see;

> The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws whenever he receives an injury. Madison v Marbury, 5 U.S. at 163.

IMPACT STATEMENT

The petitioner worked as a union boilermaker, as a high rigger/welder, for nearly 25 years, working on the largest coal fired power plants in the country, in Colorado and Wyoming, before he was injured in this matter, in one of the most dangerous trades in the United States. Workers, such as myself, want to know that if they get permanently injured on the job, that they and their families get taken care of. Otherwise, who do you think will sign up to do this dangerous work in the future?

The second reason the petitioner encourages the Court to take this case is to send a loud and clear message that "Fraud upon the court by officers of the court" will not be tolerated in this country under any circumstances similar to mine. Ever again!

Third and finally, this Court needs to promote public confidence and impartiality of the Judiciary.

CONCLUSION

The petitioner originally asked for 100 million dollars in relief. After I discovered violations by Aurora Health Care/Lakeshore Medical Clinic and four Wisconsin State Court judges in their "individual Capacities" the petitioner would like to

add these parties and raise the dollar amount to 125 million along with 33% for fees and costs, citing the law above, if the High Court agrees, I would like to have all the state court rulings, in this matter, overturned for the above-mentioned fraud upon the court by officers of the court. The petitioner has included a motion for this purpose. The petitioner swears that all facts presented to this Court, in this Petition for Certiorari are true to the best of petitioner's recollection. I thank the Supreme Court of the United States for the opportunity to be heard, and for the extra time the petitioner was given.

Respectfully and sincerely submitted,

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Petitioner Pro Se

9th of November 2022