

ORIGINAL

No. 23-103

In the  
Supreme Court of the United States

FILED  
JUL 07 2023

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

BRUCE ELLIS AND WILLIE ELLIS,

*Petitioners,*

v.

CITY OF CLARKSDALE; CLARKSDALE PUBLIC WORKS;  
AND CLARKSDALE PUBLIC UTILITIES,

*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**

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JULY 27, 2023

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SUPREME COURT, U.S.

## **QUESTIONS PRESENTED**

1. This Petition presents a Federal Question that could have and harmonize conflicting decisions in the Federal Circuit Courts and could establish precedential value whether Federal Rule Civil Procedure 5.1(b) requires the Court under 28 U.S.C. § 2403(a) to certify to the appropriate attorney general that an Act of congress (AEDPA) the Antiterrorism Effective Death Penalty Act has been called into question and presents an unconstitutional taking under the Fifth and Fourteenth Amendment, violations of the vagueness Doctrine, and shall be served on the Solicitor General of the United States, Room 5616, Department of Justice, 950 Pennsylvania Ave., N.W., Washington, DC 20530-0001?
2. This Petition presents a Federal Question and could have precedential value in the Court determining whether the Fifth and Fourteenth Amendments impose “Equivalent Due Process Limits” on Court Jurisdiction?
3. This Petition also presents a Federal Question whether Federal Rule Civil Procedure 5.1(b) requires the Court under 28 U.S.C. § 2403(a) to certify to the appropriate attorney general that an Act of congress the Fifth and Fourteenth has been called into question whether the Fifth and Fourteenth Amendments guarantee equivalent Due process of law and shall be served on the Solicitor General of the United States, Room 5616, Department of Justice, 950 Pennsylvania Ave., N.W., Washington, DC 20530-0001?
4. This Petition presents a Federal Question and Plaintiffs-Petitioners wish to be more fully informed whether a Trial Court Judge’s ‘mistake’ is reviewable

through a Writ of Certiorari pursuant to F.R.C.P. 60(b)(1)?

5. This Petition presents a Federal Question where another Appellate Court could reach a different conclusion on the same issue where the Trial Court Judge's 'mistake' of requiring Plaintiffs-Petitioners to establish "Elements of *Monell v. Department of Soc. Svcs.*, 436 U.S. 658 (1978) liability regarding a policy violation, a policy maker, and violation of constitutional amendment creates a genuine issue of material fact legally relevant to Court GRANTING F.R.C.P. 56(c) Motions for Summary Judgment in Defendants-Respondents favor without consideration of F.R.C.P. Subdivision 56(e)(3), F.R.C.P. 56(b), and Inverse Condemnation Claim "Strict Liability provisions of," 33 U.S.C. § 1251 et seq. The ACT, 86 Stat. 816, (1982) ed. and Supp.II?

6. Whether a question presenting an important public interest involving violations of the Federal (EPA) Environmental Protection Agency Clean Water Act by the City of Clarksdale / Clarksdale Public Works; and Clarksdale Public Utilities at the time of the filing as alleged in Plaintiff's complaint Doc. [1] qualify for Court GRANTING a Writ of Certiorari to prohibit further health exposures to the Plaintiffs and the general public?

7. Whether another Appellate Court could reach a different conclusion on the same issue where the Trial Court GRANTED City of Clarksdale / Clarksdale Public Works "Untimely Surreply Dispositive" F.R.C.P. 56(c) Doc. [187] motion for summary judgment filed on July 13, 2021 without Respondent's seeking leave of court was mistakenly GRANTED by the Trial Court Judge in "Error"?

8. Whether another Appellate Court could reach a different conclusion on the same issue where the Trial Court Judge Granted “Untimely Surreply Dispositive Motion” in violation of provisions of F.R.C.P. 56(b), which provides, “a party may file a motion for summary judgment at any time until 30 days after the close of all discovery?”

9. Whether another Appellate Court could reach a different conclusion on the same issue where Trial Court Judge mistakenly stated, Plaintiffs failed to rebut defendant’s claims regarding their “Surreply Dispositive Docs. [153] and [187]” when a party fails to support an assertion of fact or fails to properly address another party’s assertion of fact as required by Rule 56(c) or when an attempted response fails to comply with Rule 56(c), a Motion for Summary Judgment is improper?

10. Whether another Appellate Court could reach a different conclusion on the same issue where the Trial Court GRANTED City of Clarksdale / Clarksdale Public Works; and Clarksdale Public Utilities “Surreply Documents” [153] and [187] F.R.C.P. Rule 56(c) motion for summary judgment in “mistaken error” regarding Court findings, “Court finds summary judgment in the defendants’ favor proper on all of the Ellises’ claims.” Appeals Court AFFIRMED Trial Court GRANT Defendants-Respondents “Surreply Documents.”

11. This Petition presents a Federal question whether Attorney misconduct can serve as a basis for Court Granting a Petition for Writ of Certiorari?

12. This Petition presents a Federal question, do the Fifth and Fourteenth Amendments impose “Equivalent Due Process Limits” on Court Jurisdiction?

13. Whether “Judge’s Mistake” resulted in denying all evidentiary motions and allowing Arch Corley, City Engineer for Clarksdale Public Works to provide expert testimony Doc. [187-1] on July 13, 2021 approximately (47) days after the close of all discovery on 05/27/2021 and a violation of F.R.C.P. 60(b)(1) occurred?

14. This Petition presents a Federal question whether a violation of the ACT, 86 Stat. 816, 33 U.S.C. § 1251 et seq. (1982) ed. and Supp.II is grounds for the Court to grant summary judgment in favor of Petitioners as a matter of law pursuant to Federal Rule Civil Procedure 56(a) and 56(b), Subdivision 56(e)(3), 60(b)(1), 12(c), 7-2(d), or 55(a)?

15. This Petition presents a Federal question to determine whether another appeals court could have reached a different conclusion on the same issue where the trial court denial of Plaintiffs-Petitioners’ F.R.C.P. Rule 12(c) Motion for Judgment on the Pleadings as being “Untimely” filed on 08/03/2021 and F.R.C.P. Rule 7.2(d) provides a 35 day grace period to respond to City of Clarksdale / Clarksdale Public Works “untimely” filed Dispositive Motion Doc. [187] date 07/13/2021?

16. This Petition presents a Federal question to determine whether another appeals court could have reached a different conclusion on the same issue where Defendants-Respondents’ City of Clarksdale / Clarksdale Public Works; and Clarksdale Public Utilities also failed to seek leave of court prior to filing their “untimely” surreplies Documents Motion for summary judgments pursuant to F.R.C.P. 56(c) Doc. [187] filed on July 13, 2021 and Doc. [153] filed on May 19, 2021 and Trial Court granted Defendants-Respondents’ F.R.C.P. Rule 56(c) motions?

17. Appellants also wish to be more fully informed in the event Certiorari is DENIED by the Court. Are Pro Se Appellants required by any Federal law or Statute to be "Unwilling" participant in a Fifth Amendment Unconstitutional Taking that violates the Federal EPA Clean Water Act involving Respondents City of Clarksdale / Clarksdale Public Works; and Clarksdale Public Utilities "Public Use Utility Easement" being "Illegally" operated for the good of the community as of June 26, 2023 lying and situated on approximately 100 Feet of the Ellis's personal property being operated to divert and discharge "Untreated Raw Sewage" into the navigable waters of the Sunflower River or can Pro Se Petitioners take such actions even if actions violate provisions of (AEDPA) the Antiterrorism and Effective Death Penalty Infrastructure Act laws?

18. This Petition presents a Federal question to determine whether 28 U.S.C. § 1254(1) requires by certification at any time by a court of appeals of any question of law in any civil or criminal case as to which instructions are desired.

19. Whether this Petition presents a Federal question under F.R.C.P. 60(b)(1) where Plaintiffs filed Rule 12(c) Motion within 35 days after service of Defendants City of Clarksdale / Clarksdale Public Works "Untimely Surreply Dispositive Motion" Doc. [187] on 7/13/21, Plaintiffs F.R.C.P. Rule 12(c) Motion Judgment on the Pleadings was DENIED as "untimely filed on 8/03/21," Court failed to apply provisions of F.R.C.P. 56(b), and F.R.C.P. 7-2(d) provides in pertinent part, "a response to a dispositive motion must be served within 35 days after service of such motion. Could another appeals court have reached a different conclusion on the same issues?

20. Whether this Petition presents a Federal question where another appeals court could have reached a different conclusion on the same issue where the trial court denied all evidentiary motions pursuant to Federal Rule 702, but considered Daubert testimony proffered by Respondents Joint Expert witnesses of relevance and allowed Rule 702 invalidated and unreliable testimony on the court resulting in Judge's mistake under Federal Rule 60(b)(1)?

21. Whether this Petition presents a Federal question where another appeals court could have reached a different conclusion on the same issue where the trial court judge's mistake of not considering provisions of F.R.C.P. Subdivision 56(e)(3) which provides in pertinent part, "F.R.C.P. Subdivision 56(e) addresses questions that arise when a party fails to support an assertion of fact or fails to properly address another party's assertion of fact as required by Rule 56(c). As explained below, summary judgment cannot be granted even if there is a complete failure to respond to the motion, much less when an attempted response fails to comply with Rule 56(c) requirements . . . if summary judgment is denied, a party who failed to make a proper Rule 56 response or reply remains free to contest the fact in further proceedings. And the court may choose not to consider the fact as undisputed, particularly if the court knows of record materials that show grounds for genuine dispute."

## **PARTIES TO THE PROCEEDINGS**

### **Petitioners and Appellants Below**

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- Bruce Ellis
- Willie Ellis

### **Respondents and Appellees Below**

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- City of Clarksdale
- Clarksdale Public Works
- Clarksdale Public Utilities

## **LIST OF PROCEEDINGS**

U.S. District Court, Northern District of Mississippi  
No. 4:20-cv-00032

Bruce Ellis and Willie Ellis, *Plaintiffs*, v. City of  
Clarksdale; Clarksdale Public Works; and  
Clarksdale Public Utilities, *Defendants*

Judgment entered November 12, 2021

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U.S. Court of Appeals for the Fifth Circuit  
No. 21-60885

Bruce Ellis and Willie Ellis *Plaintiffs-Appellants*, v.  
City of Clarksdale; Clarksdale Public Works; and  
Clarksdale Public Utilities, *Defendants-Appellees*.

Judgment entered May 8, 2023

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**PETITION FOR A WRIT OF CERTIORARI**

Petitioners Bruce Ellis and Willie Ellis respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

The per curiam opinion of the U.S. Court of Appeals for the Fifth Circuit, dated May 8, 2023, is included in the Appendix (“App.”) at 1a.

**JURISDICTION**

This petition is filed within 90 days of the May 8, 2023 opinion of the Fifth Circuit Court of Appeals. (App.1a). This Court has jurisdiction under 28 U.S.C. § 1254(1).



## **CONSTITUTIONAL PROVISIONS INVOLVED**

### **U.S. Const., amend. V**

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

### **Fifth Amendment Takings Clause**

The Takings Clause of the Fifth Amendment to the United States Constitution reads as follows:

“Nor shall private property be taken for public use, without just compensation.”

### **U.S. Const., amend. XIV**

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State 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.

**U.S. Const., amend. VII**

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

**U.S. Const., amend. IX**

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be . . .

**U.S. Constitution, art. I, sec. 9**

The Privilege of the Writ of Habeas Corpus shall not be suspended, unless in Cases of Rebellion or invasion the public safety may require it.

**STATEMENT OF THE CASE**

1. On February 26, 2020, Plaintiffs-Appellants Bruce Ellis and Willie Ellis doing business as Delta Cinema, filed a Pro Se original complaint in the United States District Court for The Northern District of Mississippi (Greenville Division) against City of Clarksdale; Clarksdale Public Works; and Clarksdale Public Utilities through the vehicle of 42 U.S.C. § 1983 under the legal concept of an inverse condemnation claim which entitles property owners to just compensation if their property is damaged by a “Public Use” as described in Complaint Doc. [1].

2. Trial Court DENIED all evidentiary motions and ultimately resolved case “using dispositive motions only” to GRANT City of Clarksdale / Clarksdale Public Works; and Clarksdale Public Utilities Rule 56(c) Motions for Summary Judgments in favor of Defendants-Appellees.

3. On March 31, 2020, Clarksdale Public Utilities filed Doc. [7] and asserted F.R.C.P. Rule 12(b)(6) stating Plaintiffs-Appellants failed to State a Claim upon which relief could be granted and moved to DISMISS Plaintiffs-Appellants Complaint Doc. [1] on grounds the “Takings Claim” was not ripe because the Ellis’s failed to exhaust state remedies.

4. On April 29, 2020 during the (CMC) Case Management Conference, Plaintiffs-Appellants made oral motion and moved the Court to enter Default Judgment against the City of Clarksdale / Clarksdale Public Works pursuant to F.R.C.P. 55(a).

5. On May 7, 2020 approximately 70 clays after Plaintiffs-Appellants filed Complaint Doc. [1] and summons, Defendant City of Clarksdale filed Doc. [17] and moved to Dismiss under F.R.C.P. 12(b)(5) alleging insufficient service of process.

6. On May 12, 2020, Doc. [22] entered, CLERK’S NOTICE past Due Answer as to Clarksdale Public Works.

7. On May 13, 2020 Court received Plaintiffs-Appellants “Priority Mail” and filed Doc. [24] “Written Motion” supplementing Oral Motion Requesting Default Judgment be entered against City of Clarksdale / Clarksdale Public Works during April 29, 2020 (CMC) Case Management Conference.

8. On May 22, 2020, the City of Clarksdale filed Doc. [32] on behalf of Clarksdale Public Works and moved to Dismiss Clarksdale Public Works as it “is not a separate legal entity capable of suing or being sued.”

9. On December 10, 2020 City of Clarksdale filed Doc. [73] Separate ANSWER to Plaintiffs-Appellants Complaint Doc. [1] in the name of Clarksdale Public Works who they previously stated in Doc. [32], “is not a separate legal entity capable of suing or being sued.” City of Clarksdale failed to seek leave of Court to amend defective ANSWER. The Trial Court entered Final Judgment on November 12, 2021 GRANTING Defendants’-Appellees’ City of Clarksdale / Clarksdale Public Works Rule 56(c) Motion for Summary Judgment in violation of F.R.C.P. Rule 60(b)(1).

10. On November 13, 2020 Court entered Doc. [62] ORDER DENYING Clarksdale Public Utilities Motion to Dismiss Plaintiffs-Appellants Complaint Doc. [1] for failure to state a claim upon which relief can be GRANTED pursuant to F.R.C.P. Rule 12(b)(6).

11. On November 13, 2020 Court entered Doc. [63] ORDER DENYING City of Clarksdale Doc. [17] MOTION to Dismiss Rule 12(b)(5) for insufficient service of process.

12. Plaintiffs-Appellants filed Doc. [90] Motion for Summary Judgment F.R.C.P. 56(a) and motion was later denied based on “*Monell* Liability elements.”



## **REASONS FOR GRANTING THE PETITION**

1. The constitutionality of (AEDPA) the Antiterrorism Effective Death Penalty Act creates a private cause or private defense pursuant to F.R.C.P. 5.1(b).
2. Pursuant to F.R.C.P. 5.1(b) CERTIFICATION BY THE COURT. The Court must, under 28 U.S.C. § 2403, certify to the appropriate attorney general that a statute has been questioned.
3. This Certiorari Petition request also presents a question do the Fifth and Fourteenth Amendments impose “Equivalent Due Process Limits” on Court Jurisdiction?
4. This Certiorari Petition request also presents a question that could have national significance and harmonize conflicting decisions in the federal Circuit in that it poses the question whether the Fifth and Fourteenth Amendments of the U.S. Constitution guarantee “equivalent due process” to pro se Petitioners?
5. This case could also harmonize conflicting decisions in the federal Circuit Courts whether (AEDPA) Antiterrorism Effective Death Penalty Act should be declared by the Supreme Court as Unconstitutional, results in actual prejudice, and a deprivation of Constitutional Rights guaranteed by the Fifth, Sixth, Eighth, and Fourteenth Amendments of the U.S. Constitution, and a violation of the Vagueness Doctrine?
6. This case could have precedential value in that it can potentially reinstates the rights suspended more than 28 years ago of the Writ of Habeas Corpus

(AEDPA) and further protects the rights of citizens when the government over reaches its boundaries involving violations of infrastructure laws and rights of property owners through abuses by government official acting under the color of law that results in a denial of equal access to justice to the very people the laws say they were passed to protect.

7. Court granting writ of certiorari petition may potentially answer the question, whether AEDPA enacted by congress in 1996 violates the “Takings Clause” and can potentially establish precedential value and harmonize relations between the lower courts.

8. Congress did not provide a means to restore the rights guaranteed by the Great Writ of Habeas Corpus after enacting AEDPA in 1996, this petition can potentially resolve a conflict among the Courts whether the continued application of AEDPA results in actual prejudice to U.S. citizens who have not committed acts of terrorism.

9. The following pronouncement in of the void for vagueness doctrine was made by Justice Sutherland in *Connally v. General Construction Co.*, 269 U.S. 385, 391 (1926).

10. Petition presents a federal question whether the Court should Rule AEDPA “Unconstitutional Vague” since it has resulted in a Constructional Right being taken for more than suspended for approximately 27 years.

11. Congress use of the word “Suspension”.

12. Appellants have no other plain, speedy and adequate remedy in the ordinary course of law, Petitioners’ constantly live each day that City of

Clarksdale / Clarksdale Public Works; and Clarksdale Public Utilities may attempt to illegally misuse portions of the Antiterrorism and Effective Death Penalty Act to wrongfully bring charges against us if we don't keep quiet about their illegal use of a 12 inch or larger "Utility Easement" located under the floor of our personal property that's being operated for the good of the community in violation of the EPA Clean Water Act CFR § 122.41 et al provisions of federal and constitutional law. This Fifth Amendment Taking is still ongoing as of June 20, 2023.

13. Respondents' City of Clarksdale / Clarksdale Public Works; and Clarksdale Public Utilities may attempt to use their executive privilege to illegally enforce parts of the Antiterrorism Effective Death Penalty Act if Petitioners block their access to our personal property to prevent them from causing further damage to our building floor foundation and diverting anymore untreated raw sewage into the navigable waters of the Sunflower River through their public use utility easement in violation of Title 40 CFR 122.41 et al sections of the EPA Clean Water Act through their 12 inch or greater "Utility Easement" located under the floor of our private property being poorly maintained as a public use that caused the damages claimed in Complaint Doc. [1] and shown in various color photos that someone keeps recopying in black and white that degrades the quality of the CCTV video images taken by Suncoast pipe refitting company on or about September 2017 prior to the repairs authorized by Appellees Clarksdale Public Utilities who has final decision making authority over the "utility easement".

14. Petitioners also need the Courts assistance in obtaining "Federal whistle Blower Protection". Appellants may suffer irreparable injury if Writ of Certiorari is not GRANTED. Pro se Petitioners live in fear that City of Clarksdale / Clarksdale Public Works; and Clarksdale Public Utilities may attempt to have us "Murdered" to cover up violations of Federal EPA laws and "Takings Clause of the U.S. Constitution?"

15. Federal Rule Civil Procedure 5.1(b) allows Constitutional challenges to a federal statute.

16. Federal Rule Civil Procedure 5.1(b) Certification By The Court. The Court must, under 28 U.S.C. § 2403, certify to the appropriate attorney general that a statute has been questioned.

17. Judgment AFFIRMED pursuant to F.R. App. P. 36 contain clear / plain errors and a substantial question will be presented to en Banc Court or Supreme Ct. due to Appellees failure to seek leave of Court prior to filing F.R.C.P. 56(c) motions for summary judgments and other plain errors.

18. F.R.C.P. 52(b) provides Appellate Review of plain / clear errors that affect the substantial rights of Appellants. It is well established by the Court that "Surreply" Documents are heavily disfavored and are normally stricken from the record?

19. The Void for Vagueness Doctrine is a Constitutional Rule that requires the laws are so written that they explicitly and definitely state what conduct is enforceable.

20. Absent a stay, Appellants' will suffer irreparable injury or harm.

21. Secs. 2241 and 2254 may have precedential importance in other Courts.

22. This Petition request raises a Federal question whether the Fifth Circuit Court AFFIRMING trial court decision contradicts the Courts' recent decision in *Kemp v. United States*, 21-5726 and other Circuit Courts of Appeals could have reached a different conclusion on the same issues?



## CONCLUSION

1. Petitioners Bruce Ellis and Willie Ellis respectfully request the Court to GRANT a petition for Writ of Certiorari because this petition presents specific legal questions, issues of importance beyond the particular facts and parties involved, include the existence of a conflict between the decisions of which review is sought and a decision of another Appellate Court on the same issue, and a conflict between the Supreme Court holding in *Kemp v. United States*, 21-5726, as to call for an exercise of this Court's supervisory power.

2. Petition presents specific federal legal questions pursuant to Federal Rule Civil Procedure 5.1(b) Certification By The Court. The Court must, under 28 U.S.C. § 2403, certify to the appropriate attorney general that a statute has been questioned.

3. The Supreme Court also has Jurisdiction pursuant to 28 U.S.C. § 2403 as the constitutionality of an Act of congress affecting the public interest is drawn into question regarding (AEDPA) Antiterrorism Effective Death Penalty Act of 1996.

4. Petitioners live in fear Respondents City of Clarksdale / Clarksdale Public Works; and Clarksdale Public Utilities may attempt to have "Pro se Petitioners Murdered" to cover up unconstitutional taking and violations of Federal EPA Clean Water laws C.F.R. 122.41(e) et al Federal laws.

5. Petitioners also request the Courts assistance in obtaining "Federal Whistle Blower Protection" as this petition draws into question an urgent public interest and safety.

6. This petition also presents a federal question whether Petitioners will suffer irreparable injury if Writ of Certiorari is not GRANTED because Respondents City of Clarksdale / Clarksdale Public Works; and Clarksdale Public Utilities may attempt to enforce parts of the Antiterrorism Effective Death Penalty Act if we do not willingly participate in their unlawful acts of Diverting/Dumping Untreated Raw Sewage (Feces, Urine, and other Toxic Chemicals) through their Infrastructure "Utility Easement" located on approximately 100 feet of petitioners private property into the navigable waters of the Sunflower River in violation of federal law and provisions of (CFR) Code of Federal Regulation 122.41 et al sections of the EPA Clean Water Act.

7. There is no other legal means to resolve this matter and Petitioners will suffer irreparable injury if Writ of Certiorari is not GRANTED.

8. This petition also presents a Federal question whether the Act, 86 Stat. 816, 33 U.S.C. § 1251 et seq. and Supp. II enacted by Congress in (1982) imposes "Strict Liability" on a Polluting Defendant?

9. Whether another Appellate Court could reach a different conclusion on the same issue where the Trial Court DENIED all evidentiary motions during Court proceedings to include 'Daubert' request made by the Ellises to establish the validity and reliability of Defendants' Clarksdale Public Utilities Joint Expert witness Blake Mendrops' statement that contradicts a disputed issue involving our 5th Amendment Takings Claim shown in CCTV video footage showing that Respondents "Utility easement" lying and situated under the floor approximately 100 feet on Appellants' private property located at 11 Third St. Clarksdale, MS was defective and rusted-out on 09/27/2017 prior to Suncoast pipe refitting company making repairs on or about 09/27/2017. This defective galvanized steel utility easement being operated for the good of the community by Respondents lost its watertight and gastight characteristics and caused an illegal unauthorized (SSO) Sanitary Sewer Overflow that later resulted in damages claimed in Complaint Document No. [1]. The attached color photo shown in Trial Court Doc. #: 93-1 Filed: 01/05/2021 page 1 of 20 PageID #: 348 was never disputed by Appellees Clarksdale Public Utilities or City of Clarksdale / Clarksdale Public Works due to Trial Court denial of all "evidentiary motions" is grounds for the Court to GRANT a Writ of Certiorari?

10. Relevant Federal question, do the Fifth and Fourteenth Amendments impose "Equivalent Due Process Limits" on Court Jurisdiction?

11. This Petition presents a Federal question regarding the importance to the public of the issues regarding (EPA) Environmental Protection Agency violations and request to be more fully informed

whether it's unlawful to disobey an unlawful act imposed upon Petitioners by Respondents City of Clarksdale / Clarksdale Public Works; and Clarksdale Public Utilities in their using approximately 100 feet of Petitioners personal property to "divert Untreated Raw Sewage" into the Navigable Waters of the Sunflower River through their "Public Use Utility Easement" being operated for the good of the community in violation of Federal law, inverse condemnation law, and strict liability provisions of the Act, 86 Stat. 816, 33 U.S.C. § 1251 et seq. (1982) ed. and Supp. II at portions throughout court proceedings as admitted by Petitioner' Expert witnesses Blake Mendrop and Arch Corley on the Record on Appeal?

12. A finding of liability under the Act, 86 Stat. 816, 33 U.S.C. § 1251 et seq. and Supp. II enacted by Congress in (1982) imposes "Strict Liability" on a Polluting Defendant and may be supported simply by the establishment of its violation.

13. The takings clause in the Fifth Amendment strikes a balance between the rights of private property owners and the right of the government to take that property for a purpose that benefits the public at large.

14. F.R.C.P. Subdivision 56(e)(3) recognizes that the court may grant summary judgment only if the motion and supporting materials—including the facts considered undisputed under subdivision F.R.C.P. Subdivision 56(e)(2)—show that the movant is entitled to it. Considering some facts undisputed does not itself allow summary judgment. If there is a proper response or reply as to some facts, the court cannot grant summary judgment without determining whether those facts can be genuinely disputed.

15. Trial Court Judge Denied all Evidentiary Motions.

16. Petitioners attached a Money Order in the amount of \$300.00 to cover the writ of certiorari petition filing fee.

17. Petitioners filed proof of service on Respondents Lead Counsel, Autumn Breeden.

Respectfully submitted,

Bruce Ellis and Willie Ellis  
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July 27, 2023