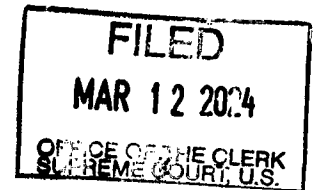


23-1245

No. _____

ORIGINAL

In the Supreme Court of the United States



David T. Johnson, Petitioner

v.

URVASHI FOSTER, et al.. Respondents

*ON PETITION FOR A WRIT OF CERTIORARI
TO THE U.S. COURT OF APPEALS FOR THE
ELEVENTH CIRCUIT*

PETITION FOR WRIT OF CERTIORARI

David T. Johnson
896 Lower Lumpkin Road
Georgetown, Georgia 39854
Voicemail: (609) 914 – 2634
Email: djohnson53@yahoo.com

QUESTIONS PRESENTED FOR REVIEW

I

Whether, United States Court of Appeals for the Eleventh Circuit, questioned Orders amounts to unlawful denial of due process; an oppressive exercise of judicial power in excess of jurisdiction or grave abuse of discretion which is tantamount to lack of jurisdiction in the findings of law or of fact, in ruling pro se petitioner abandoned our asserted claims of violations and denial of Civil Rights, by U. S. Court of Appeals for the Eleventh Circuit Judges stating they cannot locate or find argument in plaintiff – appellant’s initial opening brief.

II

Whether, United States District Court – Division of Middle Georgia, Judge Clay D. Land, questioned Orders dismissing petitioner’s Complaints with prejudice as a shotgun pleading, and refusal to consider pro se petitioner’s Second Amended Complaint, amounts to an oppressive exercise of judicial power in excess of jurisdiction, unlawful denial of due process, or grave abuse of discretion which is tantamount to lack of jurisdiction in the findings of law or of fact.

III

Whether, Magistrate Court, Georgetown – Quitman County, Georgia, questioned Order amounts to an oppressive exercise of judicial power in excess of jurisdiction; unlawful denial of due process; or grave abuse of discretion which is tantamount to lack of jurisdiction in the findings of law or of fact where Court Officials refused to allow pro se petitioner to put on our case and subsequently failed or refused to process pro se petitioner's timely filed de novo appeal as of right in the Superior Court of Quitman – County, Georgia, under Georgia Code § 5-3-20 (2021).

IV

Whether, Isabel Stoval, Chief Appraiser, Georgetown – Quitman County, Georgia, whom wrongfully took away petitioner's already approved disabled American veteran Homestead Tax Exemption, that under state statute O.C.G.A. 48 – 5 – 48 (2010) (e) Not more often than once every three years, the county board of tax assessors may require the holder of an exemption granted pursuant to this Code section to substantiate his continuing eligibility for the exemption. In no event may the board require more than three doctors' letters to substantiate eligibility, once approved, without due process, that causes harm to petitioner, is liable for discrimination, retaliation, conspiracy against petitioner on the

basis of disability, race, religion, and/or gender, to deprive petitioner of civil rights and liberty.

V

Whether Urvashi Foster, B.J. Foster, Deputy Brooks, Sheriff Department, Georgetown – Quitman County, Georgia, Jeannie Tupper, attorney, and Judge Patrick C. Bagwell is liable for hub and spoke conspiracy against petitioner.

PARTIES TO THE PROCEEDINGS

Pursuant to this Court's Rule 14(1)(b)(i), petitioner states that the caption of the case does not contain the names of all parties to the proceeding in the courts whose judgments is sought to be reviewed. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

LIST OF PARTIES - WITNESSES

Billy Joe Foster – atty. Henry Thomas Shaw –
shaw@alexandervann.com

Betty Henley, 156 Harrison Street Georgetown, GA
39854 – witness

Bradley Brooks, Badge #203, Georgetown-Quitman
County Sheriff Dept.

God and God Alone. LLC. Matthew A Nanninga –
nanningam@deflaw.com

Henry Foster, 156 Harrison Street, Georgetown, GA
39854 – witness

Jenai Alyssa Johnson, 896 Lower Lumpkin Road,
Georgetown, GA 39854

Jeanie K. Tupper, P.C., 1205 Dawson Road, Albany,
GA 31707 – attorney

Judge Henry Balkum, Superior Court of Quitman
County, GA 39854

Judge Patrick C. Bagwell, atty. Henry Thomas Shaw
– above

Julia Floyd, Clerk, Magistrate Court of Quitman
County, GA 39854

Matthew William Bridges – mbridges@law.gov

Rebecca Fendley, Clerk, Superior Court of Quitman
County, GA 39854

Isabel Stovall, Chief Appraiser, Quitman County
Assessor's Office, 111 Main Street, Georgetown, GA
39854

United States Department of Housing and Urban
Development XYZ – jointly and severally

RELATED CASES

Pursuant to this Court's Rule 14(1)(b)(iii), petitioner identifies the following related proceedings and the date of final Judgment or disposition in each:

Superior Court of Quitman County Georgia, Case No. SUCV2018000013, David T. Johnson, Plaintiff, v. LILLIE LOUELLA HOWARD, Defendant.
Dismissed Without Prejudice by Plaintiff, Ad Litem, on or about April 2, 2024. In court, Judge T. Earnest Craig said majority aged daughter can sue on her own behalf now, as well.

United States Supreme Court, David T. Johnson, Plaintiff, v. URVASHI FOSTER, et. al., Defendants. Application No. 23A736 filed 2/8/2024. A – 1, A – 4, A – 7, A – 8, A – 9

U. S. Court of Appeals for the Eleventh Circuit, Judgment Issued As Mandate: filed 01/05/2024, Case No. 23 – 10452 – CC, Document 53-2; A – 11, A – 12

Opinion of the Court, Appeal from the U. S. District Court for the Middle District of Georgia, D.C. Docket No. 4:21-cv-00219-CDL, David T. Johnson, Plaintiff, v. URVASHI FOSTER, et. al., Defendants, A – 15 to A – 20

U. S. Court of Appeals for the Eleventh Circuit, Opinion filed 11/13/2023, Case No. 23 – 10452 – CC, Document 50-1, David T. Johnson, Plaintiff, v

URVASHI FOSTER, et. al., Defendants, A – 14 to A – 20

U. S. Court of Appeals for the Eleventh Circuit, Decision filed 10/25/2023 Case No. 23 – 10452 – CC D.C. Docket No. 4:21-cv-00219-CDL, Document No. 49, David T. Johnson, Plaintiff, v URVASHI FOSTER, et. al., Defendants, A – 25

Plaintiff – Appellant’s Second Amended Complaint dated 9/6/2023, 74 pages, not considered by the Court. A – 22, A – 23

Order of the Court, Appellant’s filing titled “Objection to Order,” which is construed as a motion for reconsideration of this Court’s June 28, 2023 and August 4, 2023 orders, is DENIED. A – 24

USCA11, Case: 23 – 10452 Document 49 Date Filed: 08/04/2023 Order of the Court, D.C. Docket No. 4:21-cv-00219-CDL, Document: 45·2 Any relief sought in Appellant’s “Notice and Motion” is DENIED. A – 25

USCA11, Case: 23 – 10452 Document 41 Date Filed: 08/04/2023 Order of the Court, D.C.: and Docket No. 4:21-cv-00219-CDL, filed 06/28/2023, Case No. 23 – 10452 – CC, D.C. Document: 41. Appellees, Deputy Brooks, Patrick Bagwell, Magistrate Court of Georgetown – Quitman County and Superior Court of Georgetown – Quitman County’s motion for leave to file supplemental appendix, not served upon pro se Appellant in accordance with Court Rules, dated 06/28/2023, out of time, is GRANTED. A – 26

D.C. Middle District of Georgia, Columbus Division, 4:21-cv-00219, Document 62, text only, terminating [60] Motion to Amend/Correct. Plaintiff filed a notice of appeal in this action and the case has not been remanded to this Court. Accordingly, Plaintiffs motions for relief in this Court are premature and are terminated. Ordered by US DISTRICT JUDGE CLAY D LAND on 7/11/2023. A – 60 to A – 61

D.C. Middle District of Georgia, Columbus Division, 4:21-cv-00219, Document 17 Filed 04/04/22. ORDER regarding defendants’ motions to dismiss, stay discovery, and serve defendant United States Department of Housing and Urban Development proof of service of the summons and complaint. A – 62 to A – 63

USCA11, Case: 23 – 10452, Appellant’s Opening Brief, dated Mar 20 2023 and Mar 27 2023. A – 27

USCA11, Case: 23 – 10452, Docketed: 02/08/2023
Nature of Suit: Civil Rights Accommodations,
Retaliation. A – 28 to A – 30

D.C. Middle District of Georgia, Columbus Division,
4:21-cv-00219, dated 12/29/2022, Document Number:
49 text ORDER finding as moot [47] Motion for
Extension of Time to File RESPONSE re [47]
MOTION for Extension of Time to Complete

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4:21-cv-00219 Document 48 dated 12/28/2022
Response filed by BAGMAN re [45] Motion to Vacate
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(BRIDGES, MATTHEW) A – 31 to A – 36

D.C. Middle District of Georgia, Columbus Division,
4:21-cv-00219 Document 46 dated 12/27/2022.
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MOTION for Extension of Time to Complete
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CHRISTOPHER M. CARR, ATTORNEY GENERAL,
letter dated 12/27/2022. Clerk's Office phone call.
Instructions to request fourteen (14) day extension
permitted by Local Rule 6.2 to file response brief to

Plaintiff's Motion for Order to Show Cause, Rule 60 Motion, Motion to Extend Time of Discovery, and Request for Judicial Notice (Doc. 44). My response brief is due January 4, 2023. A – 40 to A – 46

United States District Court, Middle District of Georgia, Columbus Division, Case No. 421 – cv – 00219 – CDL, Plaintiff – Appellant, dated 12/15/2022, Rule 60 Motion, Extend Time of Discovery, Request for Judicial Notice, Jury Trial: Yes, 42 pages. A – 47 to A – 51

United States District Court, Middle District of Georgia, Columbus Division, Case No. 421 – cv – 00219 – CDL, Pursuant to this Court's Orders dated November 30, 2022 [; 9/12/2022; and 7/21/2022,] and for the reasons stated therein, JUDGMENT is hereby entered in favor of Defendants. Plaintiff shall recover nothing of Defendants. Defendants shall also recover costs of this action. A – 52 to A – 63

Plaintiff – Appellant's Complaint and Demand For Jury Trial, 29 pages, dated 12/27/2021. A – 64 to A – 65

Magistrate Court of Quitman County, Georgia, Case No. CI20 – 40DS, Urvashi Foster; God and God Alone, LLC, Plaintiff, v. David T. Johnson, Defendant. Appeal filed on 9/21/2020. Dispossessory Writ of Possession entered on 9/16/2020. Defendant(s) shall vacate premises by

September 22, 2020 at 12:00 AM or will be removed by the Plaintiff. Different from what's written on court Order, in court Patrick C. Bagwell said removed by the Sheriff, husband of Urvashi Foster. He previously came to our home in the middle of the night, traumatized and threatened my daughter, and caused us severe emotional and monetary harm.

A – 66 to A – 68

Magistrate Court of Quitman County, Georgia, Case No. CI20 – 40DS, Urvashi Foster; God and God Alone, LLC, Plaintiff, v. David T. Johnson, Defendant. Dispossessory Answer filed on 8/25/2020, by Julia Floyd, Clerk of the Magistrate Court, Quitman County, Georgia. A – 70

Magistrate Court, Quitman County, Georgia, Court Rules 36.1. Lack of Jurisdiction Over Counterclaim and 37. Amendments A – 71 to A – 72

Petitioner has numerous other documents to place into lengthy appendix.

CORPORATE DISCLOSURE STATEMENT

Pursuant to this Court's Rules 14(1)(b)(ii) and 29.6, petitioner states that it has no parent company and no publicly held company owns 10% or more of its stock.

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Appellant's filing titled "Objection to Order," which is construed as a motion for reconsideration of this Court's June 28, 2023 and August 4, 2023 orders, is DENIED A24

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ORDER: Appellees Deputy Brooks, Patrick Bagwell, Magistrate Court of Georgetown-Quitman County and Superior Court of Georgetown-Quitman County's motion for leave to file supplemental appendix out of time is GRANTED. /s/ Charles R. Wilson A26

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Document Number: 48 filed: 2/28/2022 by BRIDGES, MATTHEW RESPONSE filed BAGMAN re [45] MOTION to Vacate [43] Judgment., [44] MOTION for Extension of Time to Complete Discovery MOTION for Order to Show Cause A31 – A36

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Case 4:21-cv-00219-CDL Document: 46 Filed 12/27/22. Pursuant to the Local Rules and the instructions received in a phone call with the Clerk's Office today, I am writing to request a fourteen (14) day extension permitted by Local Rule 6.2 to file my response brief to Plaintiff's Motion for Order to Show Cause, Rule 60 Motion, Motion to Extend Time of Discovery, and Request for Judicial Notice (Doc.44). My response brief is due January 4, 2023, and I am requesting an extension until January 18, 2023. MATTHEW W. BRIDGES Assistant Attorney General, Counsel for Judge Henry L. Balkcom IV A40 – A41

Document Number: 47 12/27/2022 MOTION for Extension of Time to File RESPONSE as to [44] MOTION for Extension of Time to Complete DiscoveryMOTION for Order to Show Cause by BAGMAN filed by MATTHEW WILLIAM BRIDGES. (Attachments: # (1) Proposed Order Proposed Order to extend response time to Plaintiff's doc. 44) A42 – A46

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CASE NO. 4:27-cv-00219-CDL 7/11/2023 Document: 62 ORDER terminating [60] Motion to Amend/Correct. Plaintiff filed a notice of appeal in this action and the case has not been remanded to this Court. Accordingly, Plaintiffs motions for relief in this Court are premature and are terminated. US DISTRICT JUDGE CLAY D LAND A60 – A61

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Judgment of the dispossessory case appealed herein
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Rule 37. Amendments A71 – A72

Petitioner has numerous other documents to place
into lengthy appendix.

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F.3d 183, 187 (1st Cir. 2004). It imposes a “light
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p. 6-32. Matthew Bender 3rd ed. 2013. After a deadline has expired," <i>Brosted v. Unum Life Ins. Co. of Am.</i> , 421 F.3d 459, 464 (7th Cir. 2009) 23 <i>Almeda v. CA</i> , 354 Phil. 600, 607 (1998) 15, 16	19
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<i>Kimberg v. Univ. of Scranton</i> , 411 Fed. Appox. 473, 477 (3rd Cir. 2010) (quoting <i>Petrocelli v. Bohringer & Ratzinger</i> , 46 F.3d 1298, 1312 (3rd Cir. 1995)	19
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Doc. 23, First Amended Complaint

Opinion of the Court, Appeal from the U. S. District Court for the Middle District of Georgia, D.C. Docket No. 4:21-cv-00219-CDL, David T. Johnson, Plaintiff, v. URVASHI FOSTER, et. al., Defendants, A – 15 to A – 20

U. S. Court of Appeals for the Eleventh Circuit, Opinion filed 11/13/2023, Case No. 23 – 10452 – CC, Document 50-1, David T. Johnson, Plaintiff, v URVASHI FOSTER, et. al., Defendants, A – 14 to A – 20

U. S. Court of Appeals for the Eleventh Circuit, Decision filed 10/25/2023 Case No. 23 – 10452 – CC D.C. Docket No. 4:21-cv-00219-CDL, Document No. 49, David T. Johnson, Plaintiff, v URVASHI FOSTER, et. al., Defendants A – 25

Plaintiff – Appellant's Second Amended Complaint dated 9/6/2023, 74 pages, not considered by the Court. A – 22, A – 23

Order of the Court, Appellant's filing titled "Objection to Order," which is construed as a motion for reconsideration of this Court's June 28, 2023 and August 4, 2023 orders, is DENIED. A – 24

USCA11, Case: 23 – 10452 Document 49 Date Filed: 08/04/2023 Order of the Court, D.C. Docket No. 4:21-cv-00219-CDL, Document: 45-2. Any relief sought in Appellant's "Notice and Motion" is DENIED. A – 25

USCA11, Case: 23 – 10452 Document 41 Date Filed: 08/04/2023 Order of the Court, D.C.: and Docket No. 4:21-cv-00219-CDL, filed 06/28/2023, Case No. 23 – 10452 – CC, D.C. Document: 41. Appellees, Deputy Brooks, Patrick Bagwell, Magistrate Court of

Georgetown – Quitman County and Superior Court of Georgetown – Quitman County's motion for leave to file supplemental appendix, not served upon pro se Appellant in accordance with Court Rules, dated 06/28/2023, out of time, is GRANTED. A – 26

D.C. Middle District of Georgia, Columbus Division, 4:21-cv-00219, Document 62, text only, terminating [60] Motion to Amend/Correct. Plaintiff filed a notice of appeal in this action and the case has not been remanded to this Court. Accordingly, Plaintiffs motions for relief in this Court are premature and are terminated. Ordered by US DISTRICT JUDGE CLAY D LAND on 7/11/2023. A – 60 to A – 61

D.C. Middle District of Georgia, Columbus Division, 4:21-cv-00219, Document 17 Filed 04/04/22. ORDER regarding defendants' motions to dismiss, stay discovery, and serve defendant United States Department of Housing and Urban Development proof of service of the summons and complaint.

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USCA11, Case: 23 – 10452, Appellant's Opening Brief, dated Mar 20 2023 and Mar 27 2023. A – 27

USCA11, Case: 23 – 10452, Docketed: 02/08/2023 Nature of Suit: Civil Rights Accommodations, Retaliation. A – 28 to A – 30

D.C. Middle District of Georgia, Columbus Division,
4:21-cv-00219, dated 12/29/2022, Document Number:
49 text ORDER finding as moot [47] Motion for
Extension of Time to File RESPONSE re [47]
MOTION for Extension of Time to Complete

Discovery MOTION for Order to Show Cause.
Ordered by US DISTRICT JUDGE CLAY D LAND
on 12/29/2022 (blm) A – 37

D.C. Middle District of Georgia, Columbus Division,
4:21-cv-00219 Document 48 dated 12/28/2022
Response filed by BAGMAN re [45] Motion to Vacate
[43] Judgment,, [44] Motion for Extension of Time to
Complete Discovery Motion for Order to Show Cause
(BRIDGES, MATTHEW) A – 31 to A – 36

D.C. Middle District of Georgia, Columbus Division,
4:21-cv-00219 Document 46 dated 12/27/2022.
Request for Local Rule 6.2 Clerks Extension re [44]
MOTION for Extension of Time to Complete
Discovery MOTION for Order to Show Cause by
BAGMAN (BRIDGES, MATTHEW) A – 38 to A – 39

CHRISTOPHER M. CARR, ATTORNEY GENERAL,
letter dated 12/27/2022. Clerk's Office phone call.
Instructions to request fourteen (14) day extension
permitted by Local Rule 6.2 to file response brief to
Plaintiff's Motion for Order to Show Cause, Rule 60
Motion, Motion to Extend Time of Discovery, and
Request for Judicial Notice (Doc. 44). My response
brief is due January 4, 2023. A – 40 to A – 46

United States District Court, Middle District of Georgia, Columbus Division, Case No. 421 – cv – 00219 – CDL, Plaintiff – Appellant, dated 12/15/2022, Rule 60 Motion, Extend Time of Discovery, Request for Judicial Notice, Jury Trial: Yes, 42 pages.

A – 47 to A – 51

United States District Court, Middle District of Georgia, Columbus Division, Case No. 421 – cv – 00219 – CDL, Pursuant to this Court's Orders dated November 30, 2022 [; 9/12/2022; and 7/21/2022,] and for the reasons stated therein, JUDGMENT is hereby entered in favor of Defendants. Plaintiff shall recover nothing of Defendants. Defendants shall also recover costs of this action.

A – 52 to A – 63

Plaintiff – Appellant's Complaint and Demand For Jury Trial, 29 pages, dated 12/27/2021.

A – 64 to A – 65

Magistrate Court of Quitman County, Georgia, Case No. CI20 – 40DS, Urvashi Foster; God and God Alone, LLC, Plaintiff, v. David T. Johnson, Defendant. Appeal filed on 9/21/2020. Dispossessory Writ of Possession entered on 9/16/2020. Defendant(s) shall vacate premises by September 22, 2020 at 12:00 AM or will be removed by the Plaintiff. Different from what's written on court Order, in court Patrick C. Bagwell said removed by the Sheriff, husband of Urvashi Foster. He previously came to our home in the middle of the

night, traumatized and threatened my daughter, and caused us severe emotional injury and monetary loss.

A – 66 to A – 68

Magistrate Court of Quitman County, Georgia, Case No. CI20 – 40DS, Urvashi Foster; God and God Alone, LLC, Plaintiff, v. David T. Johnson, Defendant. Dispossessory Answer filed on 8/25/2020, by Julia Floyd, Clerk of the Magistrate Court, Quitman County, Georgia.

A – 70

Magistrate Court, Quitman County, Georgia, Court Rules

36.1. Lack of Jurisdiction Over Counterclaim

37. Amendments

A – 71 to A – 72

Petitioner has numerous other documents to place into lengthy appendix.

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

JURISDICTION

The date on which the Court of Appeals decided my Petitioner case was USCA11 Case: 23-10452 Document: 50-1 Date Filed: 11/13/2023

A – 14 to A – 20

No petition for rehearing was timely filed in my case.

The date on which the Court of Appeals decided or denied petitioner's Rule 40 Veterans Status; Rule 41 Stay Mandate; Rule 50 Vacate Judgments; Reinstate Appeals; and Extension of Time – Certiorari United States Supreme Court was 10/25/2023.

Doc. 49, A8 – A10

An extension of time to file the petition for a writ of certiorari was granted by Justice Thomas to and including March 12, 2024, in Application No. 23A736.

A1, A2, A5 – A7

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1); 28 U. S. C. § 1257(a); and 42 U.S.C. § 1983.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1st, 4th, 5th, 7th, 13th, and 14th Amendments to the U.S. Constitution

pages 6, 7, 8, 10, 11, 15, 16, 17, 22, 24, 26 and 28 below

42 U.S.C. §1981; 42 U.S.C. 3615; 42 U.S.C. 3613; Civil Action for Deprivation of Rights 42 U.S.C. §1983; Conspiracies to Interfere With Civil Rights 42 U.S.C. §1985; Conspiracy Against Rights of Citizens 18 U.S.C. § 241; and GA 44 Property 44-7 -35

Statutory requirement under color of law: *Lugar v Edmondson Oil*, 457 US 922, 102 S Ct 2744

pages 7,18, 26 and 27 below

42 U.S.C. 1985 action which seeks compensatory and punitive damage in conjunction with equitable relief as in this case is considered a legal claim, entitling plaintiff to a jury trial. See *An – Ti v. Michigan Technological Univ.*, 493 F. Supp. 1137

pages 5 and 12, below

Introduction

Petitioner submits to the Court, errors of law that is grounds for Special Rule 65 original independent action, from the principal action which resulted in the rendition of the judgments or orders complained of.

Federal District Court of Middle Georgia decision to allow only one amendment of pro se petitioner's Complaint does not comport with *Vibe Micro*, 878 F.3d at 1296 precedent case law used for *Barmapov v. Amuial*, 986 F.3d 1321 decisions, or sound law.

pages 8, 16, 18 below

Petitioner's notice and motion, 60 page document, court stamped Received by Office of the Clerk, Supreme Court, U.S., on Feb – 5 2024 is also referenced. A8, A9

Facts in this constitutional civil rights violation case, 42 U.S.C. § 1983, are distorted and misrepresented in the Court Opinion by three (3) Circuit Judges, Jordan, Lagoa, and Brasher. Doc. 50-1; A12 – A20

Petitioner did not at all abandon any issues asserted throughout my pro se pleadings. A – 19; and Doc. 23 First Amended Complaint

Both argument and Rule 60 is briefed in plaintiff – appellants Opening Brief stamped received by the court on March 27, 2023, against defendants, and three (3) judges, i.e. court, on pages iii, iv, xi, 7 and 11 of 38, and under heading Summary of the

Argument. A – 15; A -16; A – 17; A – 20; A – 40; A – 47; and A – 60

Cited to also is *Ellis v. Maine*, 448 F.2d 1325, 1328 (1st Cir. 1971); *Barmapov v. Amuial*, 986 F.3d; Docs. 42, 44, 44 – 2, and 52, to write requirement *Rule 8* short, concise, plain statement of claims.

Petitioner's factual allegations suggest violation and denial of constitutional civil rights, interference; retaliation; extortion; trespass and so forth. Docs. 35, 35 – 1, 36, 36 – 1, 38, and 44, 44 – 1, 44 – 2, 52, 52 – 1, 53, 54 and 55 and 42 U.S.C. § 1983

Summary of argument is on page 7 of 38, of plaintiff – appellant's initial opening brief. court stamped received by the U. S. Court of Appeals, Atlanta, Georgia, on March 27, 2023.

Argument is contained on pages 8 – 27 of 38.

Petitioner was not given any opportunity for oral argument.

Petitioner was given insufficient notice of some motions granted to respondents by the court, nor of

my case being dismissed with prejudice.

A26

Opinion of U. S. Court of Appeals indicates was rendered by three (3) judges, namely, Jordan, Lagoa and Brasher. USCA11 Case: 23-10452, Doc. 50 – 1; 50 – 2; and A14 – A20

The issues are controlled adversely to the plaintiff – appellant for reasons and authority given in my opening brief court stamped Mar 20 2023 and Mar 27 2023. A – 27

Petitioner's due process rights, to a de novo trial, timely appealed for, never scheduled or docketed by court officials, were violated by Magistrate Court and Superior Court of Quitman County, Georgia, around September 21, 2020, gave rise to this instant case. A66 – A72; Docs. 16 – 3 to 16 – 10; and Doc. 23 pages 17 – 20 of 25.

A motion to set aside a judgment as void for lack of jurisdiction is not subject to the time limitations of *Rule 60(b)*. See *Garcia v. Garcia*, 712 P.2d 288 (Utah 1986)

Petitioner alleges a “class based”, invidiously discriminatory animus is behind the conspirators’ action as the Court records reflect. That the actions were clearly a product of bias and prejudice of the Court. See *Griffen v. Breckridge*, 403 U.S. 88, 1021971)

Petitioner's disability, record of a disability, or perceived disability was a factor that made a difference in decision to violate plaintiffs' rights under the 1st, 4th, 5th, 13th, and 14th U.S. Constitution Amendments and State of Georgia statutory civil rights.

Other named defendants were also predisposed to discriminate on the basis of race, sex, religion, age, disability or perceived disability, jointly and severally, and acted in accordance with that disposition against petitioner.

Petitioner suffered retaliation, racial prejudice, interference, discrimination, and mistreatment in this case committed by defendants based upon my race, sex, religion, age, and/or physical limitations.

By reason of the existence of said prejudice and local influence, plaintiff shall not be able to obtain justice in court of the State of Georgia, or in any other state court to which the said indigenous melanated retired total and permanent disabled American veteran, petitioner, may under the United States Constitution, Americans With Disabilities Act, and the laws of said State of Georgia, have the right, on account of such discrimination, prejudice and local influence, to remove said cause.

Petitioner further represents, said appeal above entitled was brought by the said plaintiff - appellant

for the purpose of having my Americans With Disabilities Act [ADA] and our family's constitutional civil rights protected and enforced depending for its determination upon a correct construction of a law of the United States, and that the matter in dispute in said actions far exceeds the sum and value of two thousand dollars, exclusive of interest and costs.

Statement

Although the extraordinary remedy of certiorari is not proper when an appeal is available, it may be allowed when it can be shown that appeal would be inadequate, slow, insufficient, and will not promptly relieve a party from the injurious effects of the order complained of.

Petitioner meets burden of establishing the 3 requisites; inadequate, slow and insufficient, shown by timely filed Notice of Appeal. court stamped 9/21/2020, by Magistrate Court of Quitman County, Georgia and violation of *Congressional* disability and retirement economical rights.

A – 52 and A – 66 to A – 77

Petitioner notified Judge T. Craig Ernest, in Superior Court of Quitman County, Georgia, about this in court a few times. Superior Court there is only held twice a year. Judge Ernest sayed no papers were before him. Consequently, Judge Earnest stated he lacked jurisdiction. Petitioner stated position of dual jurisdiction in Superior Court

for some things like my child's custody protection at that time.

Failure of magistrate to send up judgment rendered by the magistrate is no ground for dismissal. *Pearce & Renfroe v. Renfroe Bros.*, 68 Ga. 194 (1881)

Around that time, I filed a discrimination complaint with the Federal District Court of Middle Georgia, Columbus Division.

Petitioner repeatedly requested discovery of material significant facts in pleadings and hearing records from the Clerk, Superior Court of Quitman County, Georgia, Rebecca Fendley, and Magistrate Court of Quitman County, Georgia, but has not received any discovery in this respect. Harm suffered, asserted by petitioner in three (3) complaints I wrote on this matter, includes but not limited to loss of caregiver, loss of use of personal property, damaged personal property, severe emotional distress, breach of contract, elder abuse, trespass, extortion, inability to live where I desired to live; interference; retaliation; police misconduct; false imprisonment; nonfeasance, misfeasance, and malfeasance; and so forth.

Especially, petitioner's Plaintiff – Appellant's Second Amended Complaint, was not even considered by the Federal District Court or U. S. Court of Appeals for the Eleventh Circuit, below. A – 21 to A – 23

General rule is that the failure of the petitioner to timely file a motion for reconsideration (MR) within the 15 – day reglementary period fixed by law renders the decision or resolution final and executory. *Hilario v. People*, 574 Phil. 348, 361 (2008) The same rule applies in appeals. The filing and the perfection of an appeal in the manner and within the period prescribed by law are not only mandatory but also jurisdictional, and the failure to

perfect an appeal has the effect of rendering the judgment final and executory. *Almeda v. CA*, 354 Phil. 600, 607 (1998)

This rule however, is not absolute.

In exceptional and meritorious cases, the Supreme Court has applied a liberal approach and relaxed the rigid rules of technical procedure.

In *Siguenza v. Court of Appeals*, the Court gave due course to the appeal and decided the case on the merits inasmuch as, on its face, it appeared to be impressed with merit.

In *Republic v. Court of Appeals*, 379 Phil. 92 – 94 (2000), the Court allowed the perfection of the appeal of the Republic, despite the delay of six days, in order to prevent a gross miscarriage of justice. In that case, the Court considered the fact that the Republic stands to lose hundreds of hectares of land already titled in its name.

Although the filing of a motion for reconsideration is a condition sine qua non or an essential condition for certiorari to lie, the rule is subject to certain well recognized exceptions.

Exceptions where the special civil action for certiorari will lie even without first filing a motion for reconsideration include:

Where the question raised in the certiorari proceeding have been duly raised and passed by the lower court, or are the same as those raised and passed upon in the lower court.

Where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the government or of the petitioner;

Where the subject matter of the action is perishable;
Where under the circumstances, a motion for reconsideration would be useless;

Where petitioner was deprived of due process and there is extreme urgency for relief; and

Where the order is a patent nullity, as where the court a quo has no jurisdiction.

Petitioner submits these exceptions are present and met in this case.

United States Court of Appeals for the Eleventh Circuit, questioned Orders amounts to unlawful denial of due process; an oppressive exercise of judicial power in excess of jurisdiction or grave abuse of discretion in the findings of law or of fact, in ruling petitioner abandoned our asserted claims of violations and denial of Civil Rights, states they cannot locate or find argument of petitioner in initial opening brief of petitioner, when in fact the

allegations and arguments in both of plaintiff – appellant’s pro se Complaints and initial opening brief, both clearly show assertions of violations of petitioner’s Constitutional Civil Rights under American With Disabilities Act; U.S.C. Title 42 §1983 applicable to Bivens § 1983 suits; Breach of Contract under O.C.G.A. Georgia Code Title 13. Contracts § 13-2-2 ; and Price Gouging § 10-1-393-4(a) ; and Retaliation under Civil Rights Act of 1968 as amended by the Fair Housing Act of 1988 – coercion, extortion, interference, retaliation, trespass, false imprisonment, and malicious prosecution; 42 U.S. Code § 12203 ; 42 U.S. Code § 1288 Enforcement; and Violation of Appendix B1 – Uniform Rules for the Magistrate Courts – record proceedings; violation of Magistrate Court Rules – Dispossession – counterclaim, lack of jurisdiction, violation of constitutional civil rights, price gouging, repairs not completed, and perjury.

Bracket are used in appellant – petitioner’s opening brief to cite legal authority or point to relevant

arguments contained in very lengthy court documents. pages 8, 9 above, 16, and A – 27

II

United States District Court – Division of Middle Georgia questioned Orders dismissing petitioner's Complaints as a shotgun pleading. amounts to an oppressive exercise of judicial power in excess of jurisdiction; unlawful denial of due process; or grave abuse of discretion in the findings of law or of fact.

Cognizable in this § 1983 action is 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1), petitioner asserted truthful allegations – not vague, conclusory, bare allegations or no more than conclusions, not entitled to the assumption of truth.' *Ashcroft v. Iqbal*, 556 U.S. 662 (2009); and 129 S. Ct. at 1950, 129 S.Ct. at 1950

Petitioner has further evidence to proffer at trial. Plaintiff moved the courts below to file a Bivens style Second Amended Complaint, wrongfully denied. Discriminatory, prejudiced, biased and racist, Judge Clay D. Land wrote plaintiff squandered the opportunity to cure the deficiencies. Plaintiff does not deserve another chance, which would likely prove futile. A – 55

Petitioner clearly asserted and alleged facts showing that respondent's actions were behind "the moving force" which actually produced the alleged deprivation of rights and harm suffered by my family

and I. Petitioner provided facts to show that these defendants expressly directed a conspiracy of deprivation of our constitutional rights, or that they created policies which left subordinates with no discretion other than to apply them in a fashion which actually produced the alleged deprivation.

Petitioner's Complaint must be 'held to less stringent standards than formal pleadings drafted by lawyers,' Erickson, 551 U.S. at 94.

Some of the allegations in the Amended Complaint may require a context specific inquiry and necessitate the development of the factual record before the Court can decide whether, as a matter of law, vague or conclusory, the Court did not do.

Judge Clay D. Land wrongfully dismissed petitioner's First Amended Complaint.

A15, A16, A17, A18, A21, A53, A54, and A55

Plaintiffs' original complaint and arguments, are certainly colorable, and could be addressed by way of a motion for summary judgment, after discovery never provided, is compelled.

In document 17, dated 04/04/22, petitioner was falsely accused of not serving defendant, United States Department of Housing and Urban Development, that I proved was false with document 19, filed on 04/28/22.

A62 – A63

Pro Se Petitioner was threatened with dismissal of my complaint without prejudice again on 7/21/2022, for technicality writing complaint.

A57 – A58

Judge Clay D. Land, states some of plaintiff – appellant’s request for extension of time to complete court documents were granted. The Court does not specify how many times. Petitioner would limit that to a few times at best. Conversely, the Court nearly immediately extended the time for respondents’ counsel to submit court documents late or not serve petitioner at all – not mentioned at all in judgment of Judge Clay D. Land, which is biased and unequal.

Though petitioner submitted most of our scheduled documents to the court on time, I necessarily requested standing extensions of time, for good cause, due to total and permanent disability, life threatening serious health reasons.

Federal Rule of Civil Procedure 6(b)(1) provides: (1) In General. When an act may or must be done within a specified time, the court may, for good cause, extend the time: (A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires, or (B) on motion made after the time has expired if the party failed to act because of excusable neglect.”

Black's Law Dictionary defines “good cause” as adequate or substantial grounds or reason to take a certain action, or to fail to take an action prescribed by law. What constitutes good cause is determined on a case by case basis. Good cause is not a rigorous or high standard under Rule 6(b), and courts have construed it broadly. *Ahanchion v. Kenan Pictures*,

624 F.3d 1253 (9th Cir. 2010); *Venegas-Hernandez v. Sonolux Records*, 370 F.3d 183, 187 (1st Cir. 2004).

It imposes a “light burden.” Moore’s Federal Practice § 6.06 [2] p. 6-32. Matthew Bender 3rd ed. 2013.

After a deadline has expired, *Rule 6* requires a showing of both “good cause” and “excusable neglect.” *Brosted v. Unum Life Ins. Co. of Am.*, 421 F.3d 459, 464 (7th Cir. 2009)

Petitioner submits that such life threatening total and permanent disability gastrointestinal bleeding and skeletal medical condition as I suffer is good cause and good faith to request extension of time to submit documents to the court.

Excusable neglect requires “a demonstration of good faith ... and some reasonable basis for noncompliance within the specified period of time.” *Kimberg od v. Univ. of Scranton*, 411 Fed. Appox. 473, 477 (3rd Cir. 2010) (quoting *Petrocelli v. Bohringer & Ratzinger*, 46 F.3d 1298, 1312 (3rd Cir. 1995)

In *Pioneer Investment Services Co. v. Brunswick Associates Ltd. Partnership*, 507 U.S. 380 (1993), the U.S. Supreme Court enumerated four factors to use as guidance as to what constitutes “excusable neglect” under Rule 6(b). *Id.*, Judge Clay D. Land did not mention in opinion.

(1) Whether the delay in filing was within the reasonable control of the movant;

(2) The length of the delay and the delay's potential impact on judicial proceedings;

(3) The danger of prejudice to the non – moving party; and

(4) Whether the movant acted in good faith.

In *Briones v. Riviera Hotel & Casino*, 116 F.3d 379, 381 (9th Cir. 1997), the court extended the four factors test to *Rule 60(b)* motions.

Therefore, under both *Rule 6(b)* and *Rule 60(b)*, Judge Clay D. Land's failure to engage in an equitable analysis of all four factors constitutes an abuse of discretion. *Lemoge v. United States*, 587 F.3d 1188, 1192 (9th Cir. 2009) (“We conclude that the district court did not identify the *Pioneer – Briones* standard or correctly conduct the *Pioneer – Briones* analysis and that this was an abuse of discretion.”)

More importantly, Federal cases should be decided on the merits.

Rule 6(b), like all the Federal Rules of Civil Procedure, “[is] to be liberally construed to effectuate the general purpose of seeing that cases are tried on the merits.” *Rodgers v. Watt*, 722 F.2d 456, 459 (9th Cir. 1983); *Wong v. Regents of the Univ. of Calif.*, 410 F.3d 1052, 1060 (9th Cir. 2005) (“Of course, courts should not mindlessly enforce deadlines.”) The excusable neglect doctrine exists, at least in part, to prevent victories by default. *Newgen, LLC v. Safe Cig. LLC*, 840 F.3d 606, 616 (9th Cir. 2016)

(observing that it is “the general rule that default judgments are ordinarily disfavored.”) Litigation in the federal civil procedure system should be decided on the merits and not on technicalities.

Rodriguez v. Village Green Realty, LLC, 788 F.3d 31, 47 (2nd Cir. 2015) (citing *Cargill, Inc. v. Sears Petroleum & Transp. Corp.*, 334 F. Supp. 2d 197, 247 (NDNY2014) (there is a strong preference for resolving disputes on the merits).

Procedure “is a means to an end, not an end in itself – the ‘handmaid rather than the mistress’ of justice.” *Charles E. Clark, History, Systems and Functions of Pleading*, 11 Va. L. Rev. 527, 542 (1925).

Principle, the Federal Rules of Civil Procedure serve “to secure the just, speedy, and inexpensive determination Submit of every action and proceeding.” *Fed. R. Civ. P. 1*. All sides to a dispute must be given the opportunity to fully advocate their views of the issues presented in the case. *Indep. Towers of Wash. v. Washington*, 350 F.3d 925, 929 (9th Cir. 2003).

Cognizable, pro se petitioner insists that a liberal, unhurried, in – depth reading of our pro se complaint, without regard to legal technicalities, reveals that the primary legal bases for our complaint is violation of Americans with Disabilities Act; violation of constitutional Civil Rights Act; and Retaliation.

Pursuant to defense against dismissal of complaint under *Rule 12 – B*, there is legal sufficiency to show petitioner is entitled to relief under my Complaint.

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. See *Conley v. Gibson*, 355 U.S. 41, 45 – 46 (1957); and also *Neitzke v. Williams*, 109 S. Ct.

The final judgment of the Courts below should also be vacated under *Rule 60(B)*.

Courts have held that *Rule 6(b)(1)(B)* should be construed broadly. *Rachel v. Troutt*, 820 F.3d 390, 394 (10th Cir. 2016).

Petitioner requests the Court to weigh the interest in substantial justice against the simple need for preserving finality of the judgment. *Expenditures Unlimited Aquatic Enterprises, Inc. v. Clark Equipment Co., D.C. Mc. 1982*, 961 F.R.D. 166.

Order dated September 16, 2020, of Magistrate Court of Quitman County Georgia, fails for reasons of violation of subject matter jurisdiction and lack of due process in this case. Violation of due process, *Johnson v. Zerbst*, 304 U.S. 458, 58 S.Ct. 1019; *Pure Oil Co. v. City of Northlake*, 10 Ill.2d 241, 245, 140 N.E. 2d 289 (1956); *Hallberg v. Goldblatt Bros.*, 363 Ill 25 (1936), (If the court exceeded it's statutory

authority. *Rosentiel v. Rosenstiel*, 278 F. Supp. 794
(S.D.N.Y. 1967) A66 – A72

There is ample reason to vacate void judgment of Magistrate Court of Quitman County Georgia entered Patrick C. Bagwell, in case number CI20 – 40DS dated 9/16/2020, for lack of subject matter jurisdiction, because that court keeps no record, cannot hear counterclaims, has no requested right of a jury trial and petitioner's de novo appeal was not sent to the Superior Court of Quitman County,

Georgia, by the Clerk, that is a clear violation of the law and petitioner's established rights of due process.

Petitioner was denied opportunity to put up our case and seeks compensation for our injuries there.

Petitioner requests material discovery of recording Judge Patrick C. Bagwell said he made in court and I could get a copy from him, while he immediately denied petitioner's motion to record the proceedings, and denied petitioner to proffer significant material evidence in a kangaroo court.

On or about April 2, 2024, Judge T. Craig Ernest informed petitioner that Judge Patrick Clay Bagwell is deceased, I did not know about.

Magistrate Judge Patrick C. Bagwell does not have absolute jurisdiction over dispossessory cases as he repeatedly stated in open court.

He is not from Georgetown, GA. I neither voted for him nor ever saw him before or afterwards.

Magistrate Court of Quitman County Georgia does not hear counterclaims petitioner objected to in court.

Petitioner requests to overcome any qualified immunity against Patrick C. Bagwell, whom lacked subject matter jurisdiction to do what he did against our family.

Magistrate Judge Patrick C. Bagwell, Sheriff B. J. Foster, nor Deputy Brooks have absolute immunity, claimed by defendant – respondents.

Petitioner plead that each Government – official defendant, through the official's own individual actions, has violated the Constitution . . . Thus, each government official named in petitioner's Original, First Amended and Second Amended Complaints, including but not limited to court clerks, Julia Floyd, and Rebecca Fendley, is liable only for his or her own conduct.

III

Petitioner asserts that Isabel Stovall, Chief Appraiser, acted in a hub – and – spoke retaliatory prejudiced and racist conspiracy against petitioner to take away my total and permanent disabled American veteran Homestead Exemption without due process caused petitioner property taxes expense

I am exempt from paying for and severe emotional distress.

Kotteakos v. United States, 328 U.S. 750 (1946) the Court characterized the facts as showing: "As the Government puts it, the pattern was 'that of separate spokes meeting at a common center,' though we may add without the rim of the wheel to enclose the spokes." The Court therefore held that while the indictment alleged one conspiracy the Government proved several (at least eight: conspiracies ...

Acceptance by competitors, without previous agreement, of an invitation to participate in a plan the necessary consequences of which, if carried out, is sufficient to establish an unlawful conspiracy under the *Sherman Act*.

The U.S. Supreme Court acknowledged in *Bray v. Alexandria Women's Health Clinic* 113 S.Ct. 753 (1993) that the standard announced in *Griffin v. Breckridge*, 403 U.S. 88, 102 (1971) was not restricted to "race" discrimination. It is therefore reasonable to assume that 1985 (3) may be used for "class - based" claims other than race which is also alleged in this case. It is also important to note in *Bray v. Alexandria Women's Health Clinic*, 113 S.Ct. 753 (1993) the U.S. Supreme Court's interpretation of the requirement under 1985(3) that a private conspiracy be one "for the purpose of depriving ... any person or "class" of persons of the equal protection of the laws, or of equal privileges and immunities under the laws, which the Court said

mandates “an intent to deprive persons of a right guaranteed against private impairment.

The U.S. Supreme Court in *Griffen* emphasized 1985(3) legislative history was directed to the prevention of deprivations which shall attack the equality of rights of American citizens; that any violation of the right, the animus and effect of which is to strike down the citizen, to the end that he may not enjoy equality of rights as contrasted with and other citizens’ rights, shall be within the scope of remedies ... Id. at 100.

Petitioner asserts that Jeannie Tupper, defendant Urvashi Foster’s attorney, acting in conspiracy with state actors under color of law became a state actor in this case, acted in a hub – and – spoke retaliatory, prejudiced, racist conspiracy and trespass against petitioner to extort money from me through wrongful dispossessory proximately causes me great suffering and harm.

The U.S. Supreme Court has ruled that “private parties”, lawyer in this case, may be held to the same standard of “state actors” where the final and decisive act was carried out in conspiracy with a state actor or state official. *Dennis v. Sparks*, 449 U.S. 24, 101 S.Ct., and 183, *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 90 S.Ct.1958.

Section 1985(3) under Title 42 reaches both conspiracies under color of law and conspiracies effectuated through purely private conduct.

In this case, petitioner has alleged a class – based, invidiously discriminatory animus is behind the conspirators’ action as the court records reflect.

That actionable cause is the treatment of a total and permanent disabled, non – lawyer pro se litigant as a distinct “class – based subject” of the Court, wherein denial of equal protection of the laws and denial of due process was clearly the product of bias and prejudice of the Court. See *Griffen v. Breckenridge*, 403 U.S. 88, 102 (1971).

Reasons for Granting the Petition

I. This case involves denial and violation of multiple Constitutional Due Process Rights.

Pages 8, 9, 14, 15, 22, 23, 27 and 28

II. Petitioner invokes being member of a protected class, 100% total and permanent disabled American veteran, has life threatening gastrointestinal bleeding and severe skeletal injuries issues, not specifically mentioned in any opinion, order, decision or judgment of Courts below.

Pages 10, 11, 24, 26 and A – 27

Both of my total and permanent veterans disability compensation and social security retirement benefits are exempt from garnishment.

A – 52

III. Non – technical liberally construed reading of pro se pleadings; amendments and

supplements; lack of due process; and violation of constitutional civil rights under color of law, detrimental to sound public policy and State of Georgia, Courts, non – compliance with decisions of the U. S. Supreme Court.

Pages 7, 13, A17, A20, A21, A27, and A57

IV. *Rule 10*, Considerations Governing Review on Writ of Certiorari, question of law problem with the United States Court of Appeals for the Eleventh Circuit, Federal District Court for Middle District of Georgia, and Magistrate Court of Quitman County Georgia, opinion. decision, order and judgments, below, entered opinions, orders, decisions and judgments in conflict with decisions of most other United States Court of Appeals on the same important matters such as shotgun pleadings; exempt, non garnishment, Acts of Congress with regard to Veterans Compensation and Social Security Disability Retirement benefits; affect great amount of people, and should be settled by this Court.

A – 52

V. Court of Appeals for the Eleventh Circuit and Federal District Court of Middle Georgia places its reasoning, is inconsistent with the court rules, nation wide governing law – and thus calls into question – plain statement rules concerning abuse of discretion that does not adhere to non – technical liberally construed reading of pro se pleadings; amendments and supplements; lack of due process; and violation of constitutional civil rights under color of law, detrimental to sound public policy.

VI. Magistrate Court of Georgetown – Quitman County, Georgia, clearly violated constitutional civil rights of petitioner under color of law with impunity. Petitioner prays for redress of our civil rights, due course of appeal, under the constitution and damages.

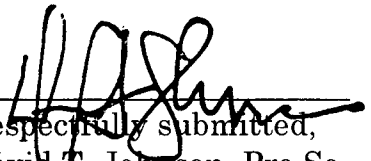
VII. Petition presents a substantial question, there is good cause and good faith for requested stay of mandate, also cited to in pages 2 – 12, and 13 – 25 of 60, of petitioner's Notice and Motions, court stamped Received Feb – 5 2024 Office of the Clerk, U. S. Supreme Court. A8 – A9

VIII. Petitioner can't afford to pay over \$4,000.00 to have booklet documents printed professionally. In good faith, I am paying court fee of \$300.00 and resending booklets to have my certiorari petition filed as instructed how to do. S. Ct. R. 14.5

Conclusion

The petition for a writ of certiorari should be granted.

Date: May 13, 2024


Respectfully submitted,
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