CASE # 23-202

IN THE SUPREME COURT OF THE UNITED STATES

Vinodh Raghubir v. United States of America et al

On Appeal to the 11th Circuit Court of Appeals

PETITION FOR WRIT OF CERTIORARI

Vinodh Raghubir, petitioner

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QUESTIONS PRESENTED FOR REVIEW

1. Do immunity statutes ,whether state or federal ,protect , a state who has waived sovereign immunity, judiciary ,officers of the court ,or any other government official, acting in an individual capacity from suit when conspiring to interfere with civil rights under USCS 1985, which escalated to an ultimate act of attempted murder , resulting in traumatic brain injury ?
2. Do immunity statutes , whether state or federal , protect, a state who has waived sovereign immunity, judiciary ,officers of the court, or any other government official, acting in an individual capacity from suit, having the same powers as private citizens , to the extent of persons with political influence when failing to prevent a conspiracy under USCS 1986 ?
3. Do immunity statutes , whether state or federal , protect, a state who has waived sovereign immunity, judiciary, officers of the court , any other government official , acting in an individual capacity , or agency from conspiring with any officer of a court , in which that individual or agency is not an officer of said court ?

4. Is a timely "suggestion" to consider en banc an already submitted and denied petition for panel rehearing a valid "suggestion" ?

5. Does the "rule of necessity" as determined by the US Supreme Court, requiring an out of circuit judge to adjudicate a case where all in circuit judges are defendants, apply to non white litigants ?

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All Entities Involved In The Criminal Justice System within 11th Circuit Boundaries

All Municipalities

Staff etc.

CORPORATE DISCLOSURE STATEMENT

No Corporation or no parent or publicly held company owning 10% or more of the corporation's stock

LIST OF PROCEEDINGS

US Court of Appeals 22-12723, 21-14332 Vinodh Raghubir v USA et al 03/31/23, 08/17/22

US District Court 6:21-cv-01564 Vinodh Raghubir v USA et al 08/10/2022

US District Court 6:20-cv-1883 Vinodh Raghubir v Bonnie Jean Parrish 01/13/23

US Court of Appeals 21-11932 Vinodh Raghubir v Bonnie Jean Parrish et al 03/29/23

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none

BASIS FOR JURISDICTION

The US Supreme Court has jurisdiction under Article III, Section 2, Clause 2:

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

And

28 USCS 1651

Petitioner seeks certiorari regarding the 1. opinion issues 12/21/22 , then subsequently , 2. the order denying panel rehearing issued 01/23/23 , 3, the order denying stay of mandate issued 01/30/23, 4. the order denying recall of mandate issued 03/07/23, 5. the order construing motion for recall of mandate as a reconsideration motion issued 03/29/23 in US Court of Appeals case 21-11932.

CONSTITUTIONAL PROVISIONS, TREATIES , STATUTES, ORDINANCES, AND REGULATIONS INVOLVED IN THIS CASE

42 USCS 1985 Conspiracy to interfere with civil rights (3)DEPRIVING PERSONS OF RIGHTS OR PRIVILEGES

If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any

right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

42 USCS 1986 Action for neglect to prevent

Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; and if the death of any party be caused by any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefor, and may recover not exceeding $5,000 damages therein, for the benefit of the widow of the deceased, if there be one, and if there be no widow, then for the benefit of the next of kin of the deceased. But no action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued.

42 USCS 1981 Equal rights under the law

(a)STATEMENT OF EQUAL RIGHTS

All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

(b)"MAKE AND ENFORCE CONTRACTS" DEFINED

For purposes of this section, the term "make and enforce contracts" includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.

(c)PROTECTION AGAINST IMPAIRMENT

The rights protected by this section are protected against impairment by nongovernmental discrimination and impairment under color of State law.

42 USCS 2000a Prohibition against discrimination or segregations in places of public accommodation

(a)EQUAL ACCESS

All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national origin.

(4)

any establishment (A)(i) which is physically located within the premises of any establishment otherwise covered by this subsection, or (ii) within the premises of which is physically located any such covered establishment, and (B) which holds itself out as serving patrons of such covered establishment.

(c)OPERATIONS AFFECTING COMMERCE; CRITERIA; "COMMERCE" DEFINED

The operations of an establishment affect commerce within the meaning of this subchapter if (1) it is one of the establishments described in paragraph (1) of subsection (b); (2) in the case of an establishment described in paragraph (2) of subsection (b), it serves or offers to serve interstate travelers of a substantial portion of the food which it serves, or gasoline or other products which it sells, has moved in commerce; (3) in the case of an establishment described in paragraph (3) of subsection (b), it customarily presents films, performances, athletic teams, exhibitions, or other sources of entertainment which move in commerce; and (4) in the case of an establishment

described in paragraph (4) of subsection (b), it is physically located within the premises of, or there is physically located within its premises, an establishment the operations of which affect commerce within the meaning of this subsection. For purposes of this section, "commerce" means travel, trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia and any State, or between any foreign country or any territory or possession and any State or the District of Columbia, or between points in the same State but through any other State or the District of Columbia or a foreign country.

(d)SUPPORT BY STATE ACTION

Discrimination or segregation by an establishment is supported by State action within the meaning of this subchapter if such discrimination or segregation (1) is carried on under color of any law, statute, ordinance, or regulation; or (2) is carried on under color of any custom or usage required or enforced by officials of the State or political subdivision thereof; or (3) is required by action of the State or political subdivision thereof.

42 USCS 1983 Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

11th amendment of the US Constitution

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

Florida Statute 768.28 et seq

768.28 Waiver of sovereign immunity in tort actions; recovery limits; civil liability for damages caused during a riot; limitation on attorney fees; statute of limitations;

exclusions; indemnification; risk management programs.—

(9)(a) An officer, employee, or agent of the state or of any of its subdivisions may not be held personally liable in tort or named as a party defendant in any action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of her or his employment or function, unless such officer, employee, or agent acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. However, such officer, employee, or agent shall be considered an adverse witness in a tort action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of her or his employment or function. The exclusive remedy for injury or damage suffered as a result of an act, event, or omission of an officer, employee, or agent of the state or any of its subdivisions or constitutional officers is by action against the governmental entity, or the head of such entity in her or his official capacity, or the constitutional officer of which the officer, employee, or agent is an employee, unless such act or omission was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. The state or its subdivisions are not liable in tort for the acts or omissions of an officer, employee, or agent committed while acting outside the course and scope of her or his employment or committed in bad faith or with

malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

BASIS FOR FEDERAL JURISDICTION OF COURT IN THE 1ST INSTANCE

The US District Court has jurisdiction under Article III sections 1 and 2 of the US Constitution

Section 1.

The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behaviour, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

Section 2.

The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;--to all cases affecting ambassadors, other public ministers and consuls;--to all cases of admiralty and maritime jurisdiction;--to controversies to which the United States shall be a party;--to controversies between two or more states;--

between a state and citizens of another state;--between citizens of different states;--between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects.

DIRECT AND CONCISE ARGUMENT AMPLIFYING WHY PETITIONER RELIED ON FOR ALLOWANCE OF THE WRIT

United States court of appeals for the 11th Circuit has entered a decision in conflict with the decision of another United States court of appeals on the same important matter and has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power

CONCISE STATEMENT

OF CASE

1. Petitioner released from incarceration July 2021, in good faith, vigorously asserted his rights , contesting unlawful vindictive judgements and convictions since 2016 to date ,and was interfered with for those assertions. Petitioner attacked the vindictive interference and alleged the same allegations, one amended with a more detailed factual basis, within the

complaints filed in the US District court case 621cv1564 and 620cv1883.

2. The cause of action in 621cv1564 was the same as 620cv1833 , but was more elaborated. The petitioner sought relief for various escalating unlawful vindictive conduct , that extended to premeditated attempted murder of the plaintiff for assertion of rights pursuant to an ongoing conspiracy to interfere with civil rights, which resulted in traumatic brain injury.
3. Inconsistently, 620cv1883 reached the status of obtaining opinion in 2111932 as the IFP application was deemed non frivolous, and although the same ,the IFP application in 621cv1564 was dismissed as frivolous in 22-12723 and 22-10486.
4. Even though 2111932 obtained opinion , the 11th circuit ruled inconsistently with not only other courts of appeals and the US Supreme court , but with themselves. They knowingly did so and did not publish the opinion creating a split between precedent and persuasive authorities.
5. The opinion in 2111932 was entered on 12/21/2022.
6. A petition for panel rehearing was timely submitted 12/30/2022
7. The order denying panel rehearing was entered 01/23/2023
8. A timely petition for rehearing en banc, and timely motion for stay of mandate, after clarifying the overlooked matters with

the panel , was timely submitted 01/25/2023

9. 1st , the clerk alleged the petition for rehearing enbanc was not timely on 01/30/23. On that same day, after petitioner demonstrated it was , they then relied upon the word limitation rule and stated that it exceeded the combined word count , that no action would be taken. On that same day the petition to stay mandate was denied.
10. The 11th circuit 7 days prematurely entered the mandate on 01/31/2023.
11. On 02/03/2023, petitioner filed "petition to exceed word length and or word count enbanc and recall mandate en banc to prevent injustice". The relief sought was that either the court review the petition for rehearing en banc , or construe the already submitted petition for panel rehearing as the petition for rehearing en banc, after recalling the premature mandate.
12. On 03/07/2023 the court recognized that the mandate was premature , but stated , as petitioner concedes ,is designated in their rules that the court would not consider leave to file a petition en banc that exceeded word limitations. However the court failed to consider the timely "suggestion" to construe the already filed and heard petition for panel rehearing as the petition for rehearing enbanc.

13. On 03/07/23 ,the petitioner filed another petition to recall mandate , asserting all of the prior, but the court construed it as a motion for rehearing and still made no reference to the "suggestion" to construe the already filed and considered petition for panel rehearing as the petition for rehearing en banc.

ARGUMENT 1 – ERROR FAILING TO STAY OR RECALL MANDATE &CONSIDER REHEARING EN BANC

14. As an initial matter , the court entered the mandate in violation of FRAP 41 . The clerk submitted the mandate 1 day after disposition of the "motion for stay of mandate", without an order notifying the appellant that the time for entry of the mandate would be shortened. The motion was disposed of on 01/30/23.

FRAP 41 requires that the mandate issue NO LESS than 7 days after the "motion for stay of mandate" was disposed of.

This is not harmless error because the injustice must be prevented. The injustice sought to be prevented was

" Inter Alia , the panel extended immunity statutes to include non judicial acts of domestic terrorism and premeditated attempted murder

discriminatorily in the case of this non white litigant knowingly relying upon the normally high probability of this court's denial to reheard en banc and the normally high probability of the denial of certiorari."

15. The petitioner concedes that a petition for rehearing en banc , is only a "suggestion", but it was held that "suggestions will be directed to the judges of the court in regular active service "*Western Pacific Ry. Corp. v. Western Pacific Ry. Co.*, supra, 345 U.S. at 262, 73 S.Ct. 656.
16. The 11th circuit was required to at least ,to direct the suggestion to all active judges. Thus the panel appears to knowingly overlook precedent with the knowledge of all active judges of the 11th circuit, resulting in a decision to discriminate against this non white petitioner, exceeding abuse of discretion, requiring the US Supreme Court's supervisory power.

The panel decision is in conflict with OVER 50 CASES decided by the 11th circuit and US Supreme court.

17. Courts of appeal normally grants a stay or recall of the issuance of a mandate pending application for a writ of certiorari when "the certiorari petition would present a substantial question and . . . there is good

cause for a stay." Fed. R. App. P. 41(d)(2)(A). Petitioner satisfies that standard if there is a "'reasonable probability'" of the Supreme Court granting certiorari and reversing , NextWave Personal Commc'ns v.FCC, No. 00-1402, 2001 U.S. App. LEXIS 19617, at *4 (D.C. Cir. Aug. 23, 2001)(quotingBooks v. City of Elkhart, 239 F.3d 826 (7th Cir. 2001)). In other words as the Supreme Court explained in applying a similar standard, the petitioner "must demonstrate that the issues are debatable among jurists of reason." Barefoot v.Estelle, 463 U.S. 880, 893 n.4 (1983). That standard is easily satisfied here.

See US Supreme Court Rule 10

ARGUMENT 2-THE COURT TOO NARROWLY CONSTRUED THE COMLAINT IN BOTH THE DISTRICT COURT AND COURT OF APPEALS EVEN AFTER BROUGHT TO THEIR ATTENTION ON PANEL REHEARING

The plaintiff/ appellant incorporates all of the arguments and facts above and below.

"The following, although neither controlling nor fully measuring the Court's discretion, indicate the character of the reasons the Court considers:

a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power."

See also FRAP 35

"(A) the panel decision conflicts with a decision of the United States Supreme Court or of the court to which the petition is addressed (see all cases in table of citations) and consideration by the full court is therefore necessary to secure and maintain uniformity of the court's decisions; AND

(B) the proceeding involves one or more questions of exceptional importance, as

1. it involves an issue on which the panel decision conflicts with the authoritative decisions of other United States Courts of Appeals that have addressed the issue."

2. the Court created a split between persuasive and precedential authority.

The Following questions of standing flow from the Court's resolution of this case:

The plaintiff sought action against Bonnie Jean Parrish and other defendants seeking relief under federal statutes 42 USCS 2000a, 1981, 1985, 1986, 1983 , and the Tucker acts, alleging inter alia, count 1, AN OVERARCHING secret CONSPIRACY to interfere with civil rights ,and subsequently having power to prevent conspiracy, failed to do so, where the agreements to commit illegal acts, including the ULTIMATE act of attempted murder of the plaintiff, abuse and torture, acts labeled DOMESTIC TERRORISM, for assertion of rights of a non white litigant , in situations where no white litigant has been treated the same ,were made prior to the overt act ,count 2, the secret subCONSPIRACY to predetermine the outcome of judicial proceedings to conceal the OVERARCHING CONSPIRACY and the conduct of, and both agreements were made prior to issuance of arrest warrants, because the petitioner filed an E.E.O.C. claim against his previous employer, seeking...

1. Declatory and Injunctive relief as the primary claim, as to count 2,
a. Admissions , as to counts 1 and 2,
b. True orders, and records in support of the defendants conclusion in the habeas cases, as to count 2,

2. Money damages, as to count 1, and
3. Discharge forever arising in his already filed Habeas cases, which would result from relief here.

The plaintiff clearly stated , within the complaint ,that as relief sought

1. The defendants produce records in support of their filings and orders,
2. Upon failure to produce such , money damages in the amount of $65,000,000.00,
3. And because the case established fraud resulting in structural error in the petitioner's habeas proceedings , release from all restraints would be triggered by valid orders in those cases resulting from this case.

The plaintiff supported the allegations within the complaint with clear and concise , indisputable evidence , that , inter alia , the defendants had committed overt acts, fraud at every phase of litigation ,pursuant to the ongoing secret subconspiracy to predetermine the outcome of judicial proceedings , designed to conceal the overarching conspiracy to interfere with civil rights, in every case , both state and federal ,commencing with

1. Orchestrating probable cause by falsifying evidence to procure arrest warrants, and to interfere with the defense, in the plaintiff's criminal cases, after the plaintiff filed E.E.O.C. complaints, to the extent of

2. The ultimate non judicial act of Attempted murder of the plaintiff for assertion of rights by a person of color, and

Even though the petitioner concedes that while there is immunity for judicial acts, there is not immunity for acts that are not judicial ,or for those that conspire with a judge in an unofficial capacity, for instance...

Conspiring to interfere with civil rights under 42 USCS 1985, resulting in various acts labeled domestic terrorism to the extent of the ultimate act of premeditated attempted murder of the plaintiff resulting in traumatic brain injury, or

Failing to prevent to prevent the 1985 conspiracy , having the same powers of citizens to the extent of persons with political influence.

"when an official is acting in knowing violation of law, "`"he *should* be made to hesitate."'" *(Burns v Reed, supra,* 500 U.S. 478, ___, 111 S Ct 1934, 1944.)

The complaints filed in the district court are summarized as follows.

SUMMARY OF COMPLAINTS IN 620CV1883 AND 621CV1564

There is an ongoing overarching secret conspiracy to interfere with the plaintiff's civil rights because prior to 2016 , the plaintiff asserted his rights in filing a complaint against a previous employer. The conspirators agreed to engage in various unlawful acts from

misrepresentation to murder, the ultimate act was premeditated attempted murder resulting in traumatic brain injury.

These acts did not arise from judicial acts

After each act of the overarching conspiracy to interfere with civil rights, the defendants committed various acts, pursuant to the ongoing secret conspiracy to predetermine the outcome of judicial proceedings to CONCEAL the acts of the overarching conspiracy to interfere with civil rights.

Some of these acts did arise from judicial acts , and the plaintiff concedes that immunity statutes apply to the defendants who acted officially in certain instances.

However , when the defendants were not acting in official capacities here , like inter alia, conspiring with another defendant who was acting officially, or the acts of violence, there is no immunity.

The plaintiff has never made any allegation that an alleged judicial act was the cause of the physical injury. All judicial acts were to conceal.

The plaintiff alleged that the cause of the injuries was the conspiracy to interfere with civil rights, not the conspiracy to predetermine the outcome of judicial proceedings. The plaintiff also complained that the defendants had power to prevent the conspiracy ,but failed to do so.

Prior to any judicial act, the defendants et al., agreed to what they would do to the plaintiff for assertion of rights to the extent of murder and did so resulting in traumatic brain injury.

The sub conspiracy to predetermine the outcome of judicial proceedings , were related to cases prosecuted by the defendants, without separation of powers, in lower cases 2016cf5231/ 618cv1017, and 2016cf1833/ 618cv1016, in which egregious ongoing frauds have and are being committed, having and continue to interfere with the machinery of ALL courts. Pursuant to the subconspiracy, the defendants used their powers vindictively to conceal the non judicial acts of the overarching conspiracy to interfere with civil rights.

The overarching secret conspiracy to interfere with civil rights , count 1, operated as follows:

a. The defendants agreed to interfere with the civil rights of the plaintiff , a non white litigant for assertion of rights and would do so by acts , non official ,non judicial or non prosecutorial in nature, to the extent of attempted murder, prior to issuance of arrest warrants.
b. The defendants, abused, tortured , maimed, and attempted to murder the plaintiff , from 2016 through 2021 the last act on 12/20/20, at the hands of white supremacist gang members, resulting in traumatic brain injury.

c. The defendants had knowledge of the conspiracy , and failed to prevent it.

The secret sub conspiracy , count 2, operated as follows :

a. Inter alia ,the defendants agreed to conceal the former conspiracy to interfere with civil rights , and all acts of said conspiracy , including concealing all non judicial /non prosecutorial acts up to the extent of attempted murder, prior to issuance of arrest warrants.

b. Inter alia, the defendants orchestrated probable cause ,by, inter alia , altering a transcript submitted to obtain arrest warrants.

b. Inter alia , the State of Florida, knowingly submitted fraudulent record , and pleadings ,in the state courts , then to the District court in cases 618cv581, 618cv1016, 618cv1017, and the District court ignored the contests and records submitted by the petitioner,

c. Inter alia, An initial pleading was filed by the petitioner/ plaintiff,

d. Inter alia, The court, knowingly , collusively, with the defendant(s),fraudulently misfiled the pleading under an incorrect case number and/ or proceeding type, and/ or fraudulently altered the initial pleading, and /or fraudulently altered and submitted the record , and /or knowingly adopted a fraudulent proposed order that was never serviced to appellant prior to adoption, and /or fraudulently entered a fraudulent order based on

the fraudulent alterations, and/ or knowingly misconstrued , and / or evaded procedural rules and federal law,

e. Inter alia, The petitioner would challenge each void order , judgement , decree, including record in support of his contentions. The petitioner clearly asserted , that the petitioner's matters were never addressed, only the court's version of other matters, not the petitioner's , were ever addressed,

f. Inter alia, The court, knowingly , collusively, with the defendant(s),fraudulently misfiled the pleading under an incorrect case number and/ or proceeding type, and/ or fraudulently altered the initial pleading, and /or fraudulently altered and submitted the record ,and /or knowingly adopted a fraudulent proposed order that was never serviced to appellant prior to adoption, and /or fraudulently entered a fraudulent order based on the fraudulent alterations, and/ or knowingly misconstrued , and / or evaded procedural rules and federal law,

g. Inter alia, These actions created fraudulent appellate records which were submitted to reviewing courts, which never included the necessary records . The petitioner would challenge each void order , judgement , decree, including record in support of his contentions. The petitioner clearly asserted , that the petitioner's matters were never addressed, only the court's version of other matters, not the petitioner's , were ever addressed, and/or return to (b) above,

h. Prior to Federal proceedings, the same conduct transpired in State court proceedings.

All the while the petitioner was subjected to the ongoing conspiracy to interfere with civil rights, premeditated acts of domestic terrorism, unconscionable acts of abuse ,torture, and violence , then the acts of the subconspiracy were engaged to conceal.

Any act alleged to be judicial in nature were OVERT acts of the subconspiracy to predetermine the outcome of judicial proceedings ,designed to conceal the conspiracy to interfere with civil rights, kidnapping , and attempted murder ,and are only described by the plaintiff in his pleadings as overt acts to evidence the subconspiracy engaged to conceal the former.

End of summary

The plaintiff/ appellant incorporates all of the arguments and facts above and below.

It appears the appellate court read the record in the lower court case , and the record in this case to raise only 3 arguments. The plaintiff has argued much more and has brought it to the attention of the lower tribunal and on appeal. The claims apparently require elaboration.

"appellate consideration is not precluded merely because a party makes a more developed or sophisticated argument on appeal." *Mueller v*

Brannigan Bros Restaurants & Taverns LLC, 323 Mich App 566, 585; 918 NW2d 545 (2018).

""while parties may not raise new arguments, they may place greater emphasis on an argument or more fully explain an argument on appeal" and may even "reframe their argument within the bounds of reason". *Gen. Refractories Co. v. First State Ins. Co.*, 855 F.3d 152, 162 (3d Cir. 2017) (internal citations and quotations omitted).

Further , the appellant was constructively and actually denied counsel in his state court trial , post conviction ,and appellate proceedings, despite being fully advised of the mental incapacities (inter alia , anterograde amnesia, aphasia),caused by various acts of violence up to the attempted murder and traumatic brain injury which is the basis of this suit.

Then when the defendants, inter alia, tampered with the court records and procured orders based off of the falsified evidence , being fully advised of the plaintiff's conditions, refused assistance when sought by motion for appointment of counsel upon the many attempts of the plaintiff to be treated in the same manner as white persons and persons without disabilities, using these disadvantages as a weapon to conceal their unconstitutional , discriminatory conduct to which the court has reviewed the indisputable evidence of fraud in the appendix and memorandums of this case

ARGUMENT 3- THE COURT CREATED A SPLIT BETWEEN PERSAUSIVE AND PRECEDENTIAL AUTHORITY "SO FAR DEPARTING FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS" , IN CONFLICT WITH DESICIONS OF THE U.S. SUPREME COURT , 11TH CIRCUIT COURT OF APPEALS , AND OTHER COURTS OF APPEALS ,BEFORE AND AFTER CONFIRMING BY WAY OF PETITION FOR PANEL REHEARING ,THAT THE PANEL WAS AWARE OF ALL POINTS OF LAW AND FACT, DETERMINING THAT THE DISTRICT COURT JUDGE'S FAILURE TO RECUSE WAS HARMLESS ERROR and

RULING THE US SUPREME COURT'S "RULE OF NECESSITY" WAS INVALID AND ERRED BY NOT READING ALL PERTINENT LAW IN PARA MATERIA, DETERMINING THAT THE JUDGES INVOLVED IN THE PLAINTIFF'S / APPELLANT'S/ PETITIONER'S CASES HAVE ACCEPTED BRIBES AND /OR COMMITTED EGREGIOUS ONGOING FRAUDS AND ATTACKED THE PLAINTIFF APPELLANT FOR ASSERTION OF RIGHTS , DENIED REQUEST FOR COUNSEL, IS AUTHORIZED UNDER THE CONSTITUTION and

ERROR NOT TO ADDRESS THE COLLATERAL CHALLENGE TO , AND DETERMINING THAT THERE WAS NOT VOID ORDERS IN THE PLAINTIFF'S

HABEAS CASES AFTER REVIEWING THE INDISPUTABLE EVIDENCE WHICH GAVE RISE TO THE SUIT HERE AND DEFENDANT JUDGES RECUSAL CLAIM

The plaintiff/ appellant incorporates all of the arguments and facts above and below.

See Williams v. Pennsylvania :: 579 U.S. ___ (2016) US Supreme court holding

"An unconstitutional failure to recuse constitutes structural error that is "not amenable" to harmless-error review, regardless of whether the judge's vote was dispositive, *Puckett* v. *United States*, 556 U. S. 129 ."

"A judge must recuse himself from a criminal case, based on an impermissible risk of actual bias, when he was personally involved in making a critical decision as a prosecutor earlier in the defendant's case."

"Chief Justice Castille's denial of the recusal motion and his subsequent judicial participation violated the Due Process Clause of the Fourteenth Amendment."

"The Court's due process precedents do not set forth a specific test governing recusal when a judge had prior involvement in a case as a

prosecutor; but the principles on which these precedents rest dictate the rule that must control in the circumstances here: Under the Due Process Clause there is an impermissible risk of actual bias when a judge earlier had significant, personal involvement as a prosecutor in a critical decision regarding the defendant's case. The Court applies an objective standard that requires recusal when the likelihood of bias on the part of the judge "is too high to be constitutionally tolerable." *Caperton* v. *A. T. Massey Coal Co.*, 556 U. S. 868 . A constitutionally intolerable probability of bias exists when the same person serves as both accuser and adjudicator in a case. See *In re Murchison*, 349 U. S. 133 –137. No attorney is more integral to the accusatory process than a prosecutor who participates in a major adversary decision. As a result, a serious question arises as to whether a judge who has served as an advocate for the State in the very case the court is now asked to adjudicate would be influenced by an improper, if inadvertent, motive to validate and preserve the result obtained through the adversary process. In these circumstances, neither the involvement of multiple actors in the case nor the passage of time relieves the former prosecutor of the duty to withdraw in order to ensure the neutrality of the judicial process in determining the consequences his or her own earlier, critical decision may have set in motion. Pp. 5–8."

In Williams , it was found that the prosecutor obtained false testimony from his codefendant

and suppressed material, exculpatory evidence in violation of *Brady* v. *Maryland*, 373 U. S. 83.

Williams obtained a stay of execution. Later that prosecutor was judge pursuant to a motion to vacate the stay order, without opinion.

In the appellant's case here , this judge failed to recuse and the order, just as the order here is devoid of opinion related to the plaintiff's/ appellant's claims pursuant to

1. 42 USCS 2000a , PROHIBITION AGAINST DISCRIMINATION OR SEGREGATION OF PLACES OF ACCOMODATION,

2. 42 USCS 1981 , EQUAL RIGHTS UNDER THE LAW,

3. 42 USCS 1985 , CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS,

4. 42 USCS 1986, ACTION FOR NEGLECT TO PREVENT CONSPIRACY,

5. 42 USCS 1983 , ACTION FOR DEPRIVATION OF CIVIL RIGHTS,

6. BREACH OF CONTACT, TUCKER ACTS.

This judge is the same judge who inter alia, falsified orders, records, and was accused of conspiring with the other defendants, and when confronted , multipliciously , denied relief in prior habeas proceedings challenging state court convictions, the same as the other judicial defendants here, who all operated the same , then

failed to recuse , then denied relief, despite the plaintiff submitting undisputable record evidence, which gave rise to this case regarding the same matters, and referred to the same records. The defendants were also accused here, inter alia, for conspiring to interfere with civil rights, failure to prevent conspiracy, kidnapping, attempted murder.

When no separation of power exists , pursuant to a conspiracy , between judge, prosecutor, attorney general , warden , clerk, and sheriff , it matters not who the official duty belongs to for the alleged error. All are responsible for the error. Separation of powers is a doctrine of constitutional law under which the three branches of government (executive, legislative, and judicial) are kept separate. This is also known as the system of checks and balances, because each branch is given certain powers so as to check and balance the other branches.

Even though the defendant judges here were not formerly prosecutors who committed fraud to obtain conviction, They were judges who did ,or they did conspire with the prosecutors who did, who all conspired in retaliation for the petitioner's assertion of rights in filing a complaint against his previous employer, as evidenced by the record.

And , all of these matters have been procedurally admitted by the defendants, as justice was obstructed pursuant to the ongoing subconspiracy to predetermine the outcome of judicial

proceedings ,engaged to conceal the overarching conspiracy to interfere with civil rights.

See, e.g., Rice v. McKenzie, 581 F.2d 1114 (4th Cir. 1978) "To be sure, disqualification is required in federal habeas cases where, as state trial or appellate judges, a judge heard the underlying trial, direct appeal, or state post-conviction motion, although the basis for disqualification is not that they involve the same "proceeding." A federal habeas appeal and the underlying state trial and appellate proceedings are more than simply "related." Not only are the parties, the issues, and the record substantially the same, unlike the situation here ,but even more significantly, a federal habeas court, in effect, reviews the state courts' findings and conclusions on the same federal constitutional issues. Thus, where a federal habeas appeal would require one of us to review the correctness of our own previous decision in an underlying state court matter, disqualification is required under 28 U.S.C. § 455(a), even though the federal habeas appeal and the underlying state court matter are not the same "proceeding."

A historical factual and operational difference exists between Williams and this case. A court in the Williams' case operated in accordance with the law, rules ,and procedure, and adjudicated his claims of misconduct by the government in the prosecution of his cases. Here, this appellant has been subjected to a judiciary that will not operate within the same, and

adjudicate the claims set forth by the pleader in effort to CONCEAL the acts of the overarching conspiracy to interfere with civil rights. Each "double downing" on the last misconduct , to the extent of attempted murder for assertion of rights, an action that was planned , prior to issuance of arrest warrants. However, the evidence is before the court now, within the appendix and memorandums. The result must be the same.

This court's decision here is in conflict with the US Supreme court's holding the rule of necessity is generally invoked in cases in which no judge in the country is capable of hearing the case

See *United States v. Will,* 449 U.S. 200, 213, 101 S.Ct. 471, 66 L.Ed.2d 392 (1980), *Atkins v. United States,* 214 Ct.Cl. 186, 556 F.2d 1028, 1036 (Ct.Cl. 1977)., *In re Petition to Inspect and Copy Grand Jury Materials,* 735 F.2d 1261, 1266-67 (11th Cir. 1984) .

This court's decision here is also in conflict with it's own holding and that of other appellate courts ,concluding that the rule of necessity allows at least those judges on this Court who have not been involved in plaintiffs' prior appeals to hear this appeal, because every judge has been involved in the plaintiff's cases.

See Bolin v. Story, 225 F.3d 1234 | 11th Circuit ,*Switzer v. Berry,* 198 F.3d 1255 (10th Cir. 2000); *Tapia-Ortiz v. Winter et al.,* 185 F.3d 8 (2d Cir. 1999).

a. It has been demonstrated to this court , in this proceeding, that every order , judgement, decree was procured by fraud in both state and federal proceedings, or relied upon an order that was procured by fraud in the origination cases ,and that every order , judgement, decree will remain VOID forever. Done so with clear undisputable evidence within the appendix and memorandums in this case. The issue remains unaddressed. This proceeding, like every other , is reliant upon orders procured by fraud.

1. Is it not fraud that transcripts and evidence have been altered ?
2. Is it not fraud that discovery has "disappeared ?
3. Is it not fraud that sentencing hearings were promised nut never transpired ?
4. Is it not fraud that within orders , judges allege that evidentiary hearings have transpired but they have not ?
5. Is it not fraud that a judge recharacterizes a pleading to predetermine dismissal ?
6. Is it not fraud to make knowing misrepresentations of fact in orders ?
7. Is it not fraud that records have been altered ?
8. Is it not fraud that proposed orders are submitted without service ?

9. Is it not fraud that judges have been bribed ?
10. Is it not fraud that appellate courts knowingly rely on these frauds ?
11. Is it not fraud to detain someone under a false identity ?
12. Is it not fraud to knowingly incarcerate persons in violation of the double clause ?
13. Is it not fraud to knowingly evade valid claims by improper operation ?
14. Is it not fraud to knowingly misfile pleadings ?
15. Is it not fraud to KNOWINGLY misapply the law ?
16. Is it not fraud to knowingly continue to rely upon knowingly void orders procured by fraud ?
17. Is acceptance of bribery to commit fraud invasive upon the constitutional rights of the plaintiff/ appellant?

The list is endless, every conceivable egregious act a court can be involved with has transpired in the plaintiff's cases , and it has been demonstrated by clear and convincing evidence to this court .

The rule of necessity would be a valid tool , if this petitioner , within the litigation of all his cases , had not been discriminated against.

This petitioner STILL has not had his claims adjudicated in ANY court.

Only the courts version of other matters have been addressed.

Every order judgement decree are VOID , as were procured by fraud , because every court has OPERATED TO OBSTRUCT JUSTICE , by evading the claims made by this petitioner to conceal the overarching conspiracy with conduct that extended to DOMESTIC TERRORISM , kidnapping and attempted murder.

This court , threatened that this petitioner's claims would not be heard if he had not paid a filing fee.

This petitioner paid the filing fee , but his claims are still not addressed, because the plaintiff's pleadings were again ignored, and then improperly relied upon a knowingly improper recharacterization.

The court's within 11th circuit boundaries , cannot operate in it's proper function , because doing so , will expose the frauds and criminal activity demonstrated above .

The petitioner has provided this court with this evidence in the appendix and memorandums of this case and in lower court objections. See Galatolo v. U.S., 394 F. App'x 670 | 11th Cir.

"The movant must establish by clear and convincing evidence, among other things, "fraud, accident, or mistake which prevented the defendant in the judgment from obtaining the benefit of his defense." *Travelers Indent. Co. v. Gore,* 761 F.2d 1549, 1551 (11th Cir. 1985). "[Only the most egregious misconduct, such as bribery of

a judge or members of a jury, or the fabrication of evidence by a party in which an attorney is implicated, will constitute a fraud on the court." *Rozier v. Ford Motor Co.*, 573 F.2d 1332, 1338 (5th Cir. 1978). An action for fraud on the court should be available only to "prevent a grave miscarriage of justice." *United States v. Beggerly*, 524 U.S. 38, 47, 118 S.Ct. 1862, 1868, 141 L.Ed.2d 32 (1998). Further, the movant must show an "unconscionable plan or scheme" to improperly influence the court's decision. *Rozier*, 573 F.2d at 1338. "Conclusory averments of the existence of fraud made on information and belief and unaccompanied by a statement of clear and convincing probative facts which support such belief do not serve to raise the issue of the existence of fraud." *Booker v. Bugger*, 825 F.2d 281, 284-85 (11th Cir. 1987) (quotation omitted)."

When applying the rule of necessity , and the sought after disqualification / requirement is rendered nullity, in which the disqualification issue was raised pursuant to the foregoing type conduct, then AUTOMATIC ERROR occurs. When Williams and the rule of necessity cases are read in para materia , " there is an impermissible risk of actual bias when a judge earlier had significant, personal involvement"..., under the due process clause.

Thus , a new question is brought before the court to decide the lesser of two evils , because either the way , the pleaders rights are violated

and justice is not served, AND there will never be finality in fraud.

The definition of void ab initio by that definition mandates that a void judgment can never gain legitimacy because it is void from the inception. Therefore this case is simple, if the judgment is void, then all subsequent orders and judgments are void as a matter of law. The fact is that each and every decision in each and every court was based on a State Court then Federal Habeas void judgment. The decisions were all piggyback decisions. No court delved into the void judgment issue in spite of the fact it is void on its face. Every court "doubled down" on the last fraud , or applied a procedural hurdle to evade address.

Because a void judgment cannot gain legitimacy, any subsequent claim or argument is also void and without merit. Every issue that happened subsequently to a void judgment is without merit because a void judgment can never gain legitimacy, any argument is also therefore without merit and also void. See Armstrong v. Manzo 380 U. S. 5451 551 552, the slate must be wiped clean when the right to be heard has been denied.

ARGUMENT 4- THE COURT CREATED A SPLIT BETWEEN PERSUASIVE AND PRECEDENTIAL AUTHORITY "SO FAR DEPARTING FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS" , IN CONFLICT WITH DESICIONS OF THE U.S. SUPREME COURT

, 11TH CIRCUIT COURT OF APPEALS , AND OTHER COURTS OF APPEALS ,BEFORE AND AFTER CONFIRMING BY WAY OF PETITION FOR PANEL REHEARING ,THAT THE PANEL WAS AWARE OF ALL POINTS OF LAW AND FACT, DETERMINING THAT PROSECUTORIAL IMMUNITY DOES APPLY TO INJUNCTIVE AND DECLATORY RELIEF

The plaintiff/ appellant incorporates all of the arguments and facts above and below.

Absolute prosecutorial immunity does not apply to injunctive and declatory relief. (see Bolin v. Story, 225 F.3d 1234, 1242 (11th Cir. 2000) citing *Tarter v. Hury,* 646 F.2d 1010, 1012 (5th Cir. 1981) ("[P]rosecutors do not enjoy absolute immunity from [declaratory and injunctive relief] claims.")

See also Supreme Court of Va. v. Consumers Union of the United States, Inc., 446 U.S. 719, 736-37, 100 S.Ct. 1967, 1977, 64 L.Ed.2d 641 (1980)

Injunctive or declatory relief is only available if no other remedy is available.

This court will allege that appeal to this court or even the Supreme court is available, because on paper it appears so. But if a reviewing court conducts themselves in the same manner as the defendants here, relying upon the same fraudulent evidence submitted by the defendants, and ignoring the clear indisputable evidence

submitted by this plaintiff, as is the case here, there is no remedy at all.

A 42 USCS 1986 failure to prevent conspiracy is unrelated to the judicial process in relation to the plaintiff in relation to the cases before the court.

While the sub conspiracy to predetermine the outcome of judicial proceedings may or may not procure some immunity , the overarching conspiracy to interfere with civil rights, engaged prior to issuance of arrest warrants , in which the primary agreement was to commit ANY non judicial or prosecutorial act from misrepresentation to murder and everything in between for assertion of rights , and then do so, does not.

"when an official is acting in knowing violation of law, "`"he *should* be made to hesitate."'" *(Burns v Reed, supra*, 500 U.S. 478, ___, 111 S Ct 1934, 1944.)

ARGUMENT 5- THE COURT CREATED A SPLIT BETWEEN PERSUASIVE AND PRECEDENTIAL AUTHORITY "SO FAR DEPARTING FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS" ,IN CONFLICT WITH DESICIONS OF THE U.S. SUPREME COURT , 11TH CIRCUIT COURT OF APPEALS , AND OTHER COURTS OF APPEALS ,BEFORE AND AFTER CONFIRMING BY WAY OF PETITION FOR PANEL REHEARING ,THAT

THE PANEL WAS AWARE OF ALL POINTS OF LAW AND FACT, DETERMINING THAT THE DEFENDANTS DID NOT ACT IN CLEAR ABSENCE OF JURISDICTION

The plaintiff/ appellant incorporates all of the arguments and facts above and below.

"Whether a judge's actions were made while acting in his judicial capacity depends on whether: (1) the act complained of constituted a normal judicial function; (2) the events occurred in the judge's chambers or in open court; (3) the controversy involved a case pending before the judge; and (4) the confrontation arose immediately out of a visit to the judge in his judicial capacity. *Scott v. Hayes,* 719 F.2d 1562, 1565 (11th Cir. 1983)."

See SIBLEY v. LANDO | 437 F.3d 1067 | 11th Cir. |2005

When applying the Sibley test

1.

a. Conspiring to interfere with civil rights, to kidnapp, and to murder as alleged in the complaint ,is not a judicial act.

"when an official is acting in knowing violation of law, "`"he *should* be made to hesitate."'" *(Burns v Reed, supra,* 500 U.S. 478, ___, 111 S Ct 1934, 1944.)

b. Kidnapping , as alleged in the complaint , is not a judicial act.

c. Attempted murder, resulting in Traumatic Brain Injury, as alleged in the complaint , is not a judicial act.

2. the events did not occur in the judge's chambers or in open court.

3. it may be possible to say that the controversy involved a case pending before the court.

4. the confrontation did not arise immediately out of a visit to the judge in his judicial capacity.

The specific conduct ,alleged to be judicial ,described within the complaint only demonstrates OVERT ACTS of the sub conspiracy to conceal the overarching conspiracy to interfere with civil rights with extending acts up to premeditated attempted murder of the petitioner. The OVERT ACTS are only evidence of the sub conspiracy, while the sub conspiracy evidence the CONCEALMENT of the overarching conspiracy to interfere with civil rights. The overt acts may be considered circumstantial evidence , but it is for a jury to decide if it is sufficient. Overt acts can be legal , illegal and everything in between, but they do not render the cause of action null and can be used to infer conspiracy, as is the case here. Just so , the acts that are alleged judicial in nature , and are alleged to require immunity, do not render this cause of action subject to dismissal because they only proffer evidence of overt acts of the subconspiracy to predetermine

the outcome of judicial proceedings ,engaged to conceal the overarching conspiracy to interfere with civil rights.

The plaintiff has never established a causal connection between a judicial or prosecutorial act and conspiracy to interfere with civil rights, kidnapping , attempted murder. The causal connection exists where the subconspiracy to predetermine the outcome of judicial proceedings was engaged to conceal the overarching conspiracy to interfere with civil rights , in which the ultimate act was attempted murder ,resulting in traumatic brain injury.

If immunity exists for the overt acts pursuant to the conspiracy to predetermine the outcome of judicial proceedings ,the defendants acting in individual capacity ,conspiring with the defendant who did act officially are not imune , and it does NOT include conspiring to interfere with civil rights and the ultimate acts of kidnapping and attempted murder of the plaintiff.

The plaintiff filed suit for the wrongs of conspiracy, kidnapping, and attempted murder and sought damages.

And a 42 USCS 1986 failure to prevent conspiracy is unrelated to the judicial process in relation to the plaintiff in relation to the cases before the court.

5. The plaintiff filed suit for the defendants, including non judiciary defendants , to stop acting in a certain way, and sought declatory and injunctive relief, admissions ,true orders, and records in support of the defendants conclusions in the habeas cases, after his pleadings and clear indisputable evidence have been ignored in motion, appeal, mandamus ,prohibition, and every other method, even though relief should have been granted. These requests were related to the subconspiracy to predetermine the outcome of judicial proceedings.

The plaintiff filed suit for the defendants , including non judiciary defendants , for monetary damages for the overarching conspiracy to interfere with civil rights , attempted murder resulting in traumatic brain injury.

6. Additionally , the prosecution in the plaintiff's state cases acted as an investigator gathering evidence to obtain arrest warrants and to present at trial when the transcript was altered. The prosecutor advised the sheriff on what alterations to make in the transcript because the investigator failed to mirandize and to criminalize statements. The probable cause was orchestrated.

See *Burns v Reed* (500 U.S. 478, ___, 111 S Ct 1934, 1943), where it held, quoting *Imbler (supra*, at 430), that "advising the police in the investigative phase of a criminal case is [not] so `intimately associated with the judicial phase of the criminal process' [citation omitted] that it

qualifies for absolute immunity", and, most recently, in *Buckley v Fitzsimmons* (509 US ___, ___, 113 S Ct 2606, 2617), where the Court held that when prosecutors are conducting "investigative work * * * in order to decide whether a suspect may be arrested" they should not be endowed with absolute immunity.

"Whether they do is determined by the nature of the function performed, not the identity of the actor who performed it, *Forrester* v. *White*, 484 U.S. 219, 229, and it is available for conduct of prosecutors that is "intimately associated with the judicial phase of the criminal process." *Imbler* v. *Pachtman*, 424 U.S. 409, 430. Pp. 267-271.

Additionally, the alleged victims in the plaintiff's cases , refused to file affidavits against the plaintiff. Instead ,the prosecutor and detective took to the press to influence their decisions and those of the future jury.

See Buckley v Fitzsimmons (509 US ___, ___, 113 S Ct 2606, 2617),

"statements to the media also are not entitled to absolute immunity. There was no common law immunity for prosecutor's out-of-court statements to the press, and, under *Imbler*, such comments have no functional tie to the judicial process just because they are made by a prosecutor. Nor do policy considerations support extending absolute immunity to press statements,"

ARGUMENT 6- THE COURT CREATED A SPLIT BETWEEN PERSUASIVE AND PRECEDENTIAL AUTHORITY "SO FAR DEPARTING FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS", IN CONFLICT WITH DESICIONS OF THE U.S. SUPREME COURT , 11TH CIRCUIT COURT OF APPEALS , AND OTHER COURTS OF APPEALS ,BEFORE AND AFTER CONFIRMING BY WAY OF PETITION FOR PANEL REHEARING ,THAT THE PANEL WAS AWARE OF ALL POINTS OF LAW AND FACT, DETERMINING BY INFERENCE , THAT SPECIFIC STATUTES WERE INVALID, EXCEPT USCS 1983, DETERMINING THAT IMPROPER RECHARACTERIZATION TO PREDETERMINE THE DISMISSAL AND FORECLOSE THE APPEAL and FAILURE TO LIBERALLY CONSTRUE IS AUTHORIZED BY THE US SUPREME COURT AND CONSTITUTION AND , DETERMINING THAT, THE DEFENDANTS ARE AUTHORIZED , UNDER 42 USCS 1986 TO FAIL TO PREVENT THE 42 USCS 1985 CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS AND THAT SUCH FAILURE IS AN ACT THAT IS JUDICIAL IN NATURE

The plaintiff/ appellant incorporates all of the arguments and facts above and below.

The complaint was raised pursuant to

1. 42 USCS 2000a , PROHIBITION AGAINST DISCRIMINATION OR SEGREGATION OF PLACES OF ACCOMODATION,

2. 42 USCS 1981 , EQUAL RIGHTS UNDER THE LAW,

3. 42 USCS 1985 , CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS,

4. 42 USCS 1986, ACTION FOR NEGLECT TO PREVENT CONSPIRACY,

5. 42 USCS 1983 , ACTION FOR DEPRIVATION OF CIVIL RIGHTS,

6. BREACH OF CONTACT, TUCKER ACTS,

And because the courts ignored the statutes and the allegations of conspiracy, kidnapping , and murder, the facts and points of law asserted by the court have been missapplied by exclusion and knowing failure of the district court to liberally construed.

In reviewing a complaint dismissed for lack of jurisdiction or for failure to state a claim, the appellate court must consider its allegations as true. *Cooper v. Pate,* 378 U.S. 546, 84 S.Ct. 1733, 12 L.Ed.2d 1030 (1964); *Reeves v. City of Jackson, Mississippi,* 532 F.2d 491, 493 (5th Cir. 1976); *Spector v. L. Q. Motor Inns, Inc.,* 517 F.2d 278, 281-82 (5th Cir. 1975), *cert. denied,* 423 U.S. 1055, 96 S.Ct. 786, 46 L.Ed.2d 644 (1976). Moreover, pro se complaints are held to less

stringent standards than formal pleadings drafted by lawyers. *Haines v. Kerner,* 404 U.S. 519, 92 S.Ct. 594, 596, 30 L.Ed.2d 652 (1972).

The 11th circuit was repeatedly made aware of this issue , but has failed to address and is continuing to apply the improper RECHARACTERIZATION.

a. Inter alia , properly construed under 1985, the court must address the conspiracy to interfere with civil rights. (see uscs 1985)

b. Inter alia , properly construed under 1986, the court must address the fact that the defendants had the power to prevent the conspiracy and failed to do so and that there is no immunity for this failure. (see uscs 1986)

c. Inter alia , properly constued under 1981, the court must address the fact that the plaintiff has not been treated the same as white persons .

d. Inter alia , properly construed under 2000a, the court must address whether the plaintiff was discriminated in a place of accommodation.

Specifically , 1986 holds the following :

"Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be

committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented..."

Every judge , prosecutor, attorney, and government official, both state and federal had such power and failed to prevent the conspiracy to interfere with civil right

There can be no immunity for such failure as would be contradictory to the statute. A failure to prevent such conspiracy is unrelated to the judicial process, preparation for a case, etc..

Whether a judge's actions were made while acting in his judicial capacity depends on whether: (1) the act complained of constituted a normal judicial function; (2) the events occurred in the judge's chambers or in open court; (3) the controversy involved a case pending before the judge; and (4) the confrontation arose immediately out of a visit to the judge in his judicial capacity. *Scott v. Hayes,* 719 F.2d 1562, 1565 (11th Cir. 1983)."

See SIBLEY v. LANDO | 437 F.3d 1067 | 11th Cir. | 2005

When applying the Sibley test to the elements of 42 USCS 1986 Failure to prevent conspiracy,

1. The failure to prevent conspiracy complained of does not constitute a normal judicial function,

2. The failure to prevent conspiracy event did not occur in chambers or open court,
3. The failure to prevent conspiracy may have involved a case pending before the judge,
4. The failure to prevent conspiracy did not arise immediately out of a visit to the judge in his judicial capacity

The failure to prevent conspiracy does not give rise to immunity.

"That courts lack jurisdiction over one matter does not affect their jurisdiction over another "

"a court retains jurisdiction even if a litigant's request for relief lacks merit, see *Steel Co.* v. *Citizens for Better Environment*, 523 U. S. 83 , and a federal court has a "virtually unflagging obligation," *Colorado River Water Conservation Dist.* v. *United States*, 424 U. S. 800 , to assert jurisdiction where it has that authority. Nor can the established practice of recharacterizing pleadings so as to offer the possibility of relief justify an approach that, as here, renders relief impossible and sidesteps the judicial obligation to assert jurisdiction."

See Mata v. Lynch, 576 U.S. (2015) US Supreme Court

Whether a judge's actions were made while acting in his judicial capacity depends on whether: (1) the act complained of constituted a normal judicial function; (2) the events occurred in the

judge's chambers or in open court; (3) the controversy involved a case pending before the judge; and (4) the confrontation arose immediately out of a visit to the judge in his judicial capacity. *Scott v. Hayes,* 719 F.2d 1562, 1565 (11th Cir. 1983)."

See SIBLEY v. LANDO | 437 F.3d 1067 | 11th Cir. | 2005

The plaintiff / appellant attacked the judge's sua sponte order engaging Federal Rule of Civil Procedure 52(a)(1) because the judge entered the order without facts being determined by a jury, nor with facts entered or disputed by the defendants.

The judge failed to state ANY factual findings, and only provided "clearly erroneous" CONCLUSORY statements, therefore , the judge failed to comply with rule 52. THERE IS NO EVIDENCE TO SUPPORT SUCH CONCLUSIONS. The order is VOID.

A finding is "clearly erroneous" **when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed**. United States v. United States Gypsum Co., 333 U.S. 364, 395 (1948).

The District court extracted portions of the complaint and excluded others necessary for determination. Thus did not review the complaint

in it's entirety. The District court only accepted portions as true and others as not. The "entire evidence" was not considered.

This issue was briefed , but not addressed on appeal.

On appeal, the Court's legal conclusions are reviewable *de novo*, and its factual findings for clear error. Fillmore v. Page, 358 F.3d 496, 503 (7th Cir.2004). The "clearly erroneous standard" applies to appellate review of a trial court's findings of fact under Rule 52 (c). A denial of summary judgment Under Rule 56(a) is reviewed *de novo*. Drewitt v. Pratt, 999 F.2d 774, 778 (4th Cir. 1993).

Due process requires that the procedures by which laws are applied must be evenhanded, so that individuals are not subjected to the arbitrary exercise of government power.

Failure to comply due process rules of procedure render a judgement void.

ARGUMENT 7- THE COURT CREATED A SPLIT BETWEEN PERSUASIVE AND PRECEDENTIAL AUTHORITY "SO FAR DEPARTING FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS" ,IN CONFLICT WITH DESICIONS OF THE U.S. SUPREME COURT , 11TH CIRCUIT COURT OF APPEALS , AND

OTHER COURTS OF APPEALS ,BEFORE AND AFTER CONFIRMING BY WAY OF PETITION FOR PANEL REHEARING ,THAT THE PANEL WAS AWARE OF ALL POINTS OF LAW AND FACT, DETERMINING THAT BONNIE JEAN PARRISH ,PROSECUTORS , THE ORANGE COUNTY CLERK, AND OTHERS DID NOT FAIL TO PERFORM ADMINISTRATIVE DUTIES CITED IN COMPLAINT (complaint captioned et. Al. And caption was amended)

The plaintiff/ appellant incorporates all of the arguments and facts above and below.

The defendants were required to service proposed orders , provide discovery and record ,as dictated in the complaint but knowingly failed to do so. Such activity is administrative and are required by rules of procedure, discovery, and clearly established state and federal law. There is no discretion involved, none of these actions required a judicial order because the prosecution is obligated to provide such discovery, service of documents, and the clerk must upon request. The failures did not arise from judicial orders. The purpose of such records is for preparation of defense. The defendants interfered with counsel's ability to do so.

See United States v. Cronic :: 466 U.S. 648 (1984)

Administrative activities qualify for qualified immunity at best and

1. Must be within the scope of his/her office,
2. Are in objective good faith, and
3. Do not violate clearly established statutory or constitutional rights of which a reasonable person would be aware.

See Harlow v. Fitzgerald, 457 U.S. 800, 102 S. Ct. 2727, 73 L. Ed. 2d 396 (1982).

Anderson v. Creighton, 483 U.S. 635, 107 S. Ct. 3034, 97 L. Ed. 2d 523 (1987).

And A 42 USCS 1986 failure to prevent conspiracy is unrelated to the judicial process in relation to the plaintiff in relation to the cases before the court.

Conspiracy to interfere with civil rights , and attempted murder resulting in traumatic brain injury are not judicial , prosecutorial , in nature, nor can a judge order the clerk to perform any of these actions.

See Tarter v Hury 646 F 2d 1010, 1013 5th cir 1981

Hart v Hodges v Hodges 387 F 3d 1288, 1295 11th Cir 2009

ARGUMENT 8- THE COURT CREATED A SPLIT BETWEEN PERSUASIVE AND PRECEDENTIAL AUTHORITY "SO FAR DEPARTING FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS", IN CONFLICT WITH

DESICIONS OF THE U.S. SUPREME COURT , 11TH CIRCUIT COURT OF APPEALS , AND OTHER COURTS OF APPEALS ,BEFORE AND AFTER CONFIRMING BY WAY OF PETITION FOR PANEL REHEARING ,THAT THE PANEL WAS AWARE OF ALL POINTS OF LAW AND FACT, DETERMINING THAT ANY CONSTITUTIONAL RIGHT HAD NOT BEEN VIOLATED WHICH INCLUDES THE 8TH AMENDMENT CLAIM (complaint captioned et. Al. And caption was amended) ,THAT THE PLAINTIFF WAS MISTREATED DURING CONFINEMENT PURSUANT TO A CONSPIRACY , AND INJUNCTIVE AND OR DECLATORY RELIEF IS NOT AVAILABLE EVEN THOUGH THE PRIMARY CLAIM IS NOT "RELEASE FROM CONFINEMENT"

The plaintiff/ appellant incorporates all of the arguments and facts above and below.

The court incorrectly asserts that the primary claim for relief is release from detention and that such claim must be raised on habeas petition. This is incorrect . The release from detention would arise from the already filed habeas petitions once the claims here are addressed, because the frauds committed to obstruct justice in those cases would be exposed.

See *Bruce v. Wade*, 537 F.2d 850, 852 (5th Cir. 1976)

"Bruce's attack is directed at alleged mistreatment while incarcerated, not the fact or

duration of his confinement itself. Thus there can be no suggestion that he must seek relief by petition for *habeas corpus* rather than under section 1983. *See Preiser v. Rodriguez* 1973, 411 U.S. 475, 93 S.Ct. 1827, 36 L.Ed.2d 439; *Fulford v. Klein,* 5 Cir. 1976, 529 F.2d 377, *rehearing en banc pending."*

The courts overlooked a history of cases discussing cruel and unusual punishment ,.

In addition to the relief sought for the sub conspiracy to predetermine the outcome of judicial proceedings, the complaint alleges an overarching conspiracy to interfere with civil rights abuse, torture, kidnapping , and attempted murder , resulting in traumatic brain injury as punishment for assertion of rights.

Surely , when accepted as true, as the court is required to , is cruel and unusual punishment, in particular when it was agreed to engage in this conduct by the defendants prior to issuance of arrest warrants.

See Hope v Pelzer No. 00-12150 US Court of Appeals 11th Circuit
See HART v. HODGES | 587 F.3d 1288 | 11th Cir.2009
"Absolute immunity generally has not been extended to corrections officials. *Procunier v. Navarette,* 434 U.S. 555, 561-62, 98 S.Ct. 855, 859-60, 55 L.Ed.2d 24 (1978); *Whitehorn v.*

Harrelson, 758 F.2d 1416, 1426 (11th Cir. 1985); *Bruce*, 537 F.2d at 852-53"

"Some things are never acceptable, no matter the circumstances."

See Sconiers v. Lockhart, 946 F.3d 1256
"has no legitimate penological purpose, and is simply not part of the penalty that criminal offenders pay for their offenses against society." *Graham v. Sheriff of Logan Cty.* , 741 F.3d 1118, 1122-23 (10th Cir. 2013)

Wilkins v. Gaddy , 559 U.S. 34, 37, 130 S.Ct. 1175, 175 L.Ed.2d 995 (2010), "a correctional officer's malicious and sadistic actions that both have no legitimate penological purpose and are unacceptable by contemporary standards of decency subject a prisoner to cruel and unusual punishment, in violation of the Eighth Amendment" "the core judicial inquiry" requires us to consider "whether force was applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm." *Wilkins* , 559 U.S. at 37, 130 S.Ct. 1175

"correctional officers in a prison setting can use pepper-spray or a takedown to subdue an inmate as long as a valid penological reason supports the use of such force." *See Thomas v. Bryant* , 614 F.3d 1288, 1301–11 (11th Cir. 2010) ; *Danley v. Allen* , 540 F.3d 1298, 1306 (11th Cir. 2008).

"the unnecessary and wanton infliction of pain" qualifies under the Eighth Amendment as

proscribed "cruel and unusual punishment." *Hudson v. McMillian* , 503 U.S. 1, 5, 112 S.Ct. 995, 117 L.Ed.2d 156 (1992).

"to have a valid claim on the merits of excessive force in violation of [the Eighth Amendment], the excessive force must have been sadistically and maliciously applied for the very purpose of causing harm." *Johnson v. Breeden* , 280 F.3d 1308, 1321 (11th Cir. 2002) ; *see also Thomas v. Bryant* , 614 F.3d 1288, 1304 (11th Cir. 2010).

As for the objective component of an excessive-force violation, it focuses on whether the official's actions were "harmful enough," *Hudson* , 503 U.S. at 8, 112 S.Ct. 995, or "sufficiently serious," *Wilson v. Seiter* , 501 U.S. 294, 298, 111 S.Ct. 2321, 115 L.Ed.2d 271 (1991), to violate the Constitution.

ARGUMENT 9- THE COURT CREATED A SPLIT BETWEEN PERSUASIVE AND PRECEDENTIAL AUTHORITY "SO FAR DEPARTING FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS", IN CONFLICT WITH DESICIONS OF THE U.S. SUPREME COURT , 11TH CIRCUIT COURT OF APPEALS , AND OTHER COURTS OF APPEALS ,BEFORE AND AFTER CONFIRMING BY WAY OF PETITION FOR PANEL REHEARING ,THAT THE PANEL WAS AWARE OF ALL POINTS OF LAW AND FACT, DETERMINING THAT

ANY CONSTITUTIONAL RIGHT HAD NOT BEEN VIOLATED WHICH INCLUDES THE 4TH AMENDMENT (complaint captioned et. Al. And caption was amended)

The plaintiff/ appellant incorporates all of the arguments and facts above and below.

Within the complaint , and supported by the appendix and memorandums in this case, it is asserted that probable cause was orchestrated .

During investigation , the sheriff and prosecutor obtained arrest warrants by altering a transcript ,and submitted affidavits for arrest warrants supported by the altered evidence.

The defendants, including the prosecutor, are not immune from suit because "Prosecutorial immunity does not apply when a prosecutor knowingly makes false statements of fact in an affidavit supporting an application for an arrest warrant. "

Kalina, 522 U.S. at 123, 118 S.Ct. at 506.

"Likewise, police officers do not have absolute immunity for submitting supporting affidavits in their applications for arrest warrants." *Jones*, 174 F.3d at 1282.

See HART v. HODGES | 587 F.3d 1288 | 11th Cir.2009

ARGUMENT 10- THE COURT CREATED A SPLIT BETWEEN PERSUASIVE AND PRECEDENTIAL AUTHORITY "SO FAR DEPARTING FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS", IN CONFLICT WITH DESICIONS OF THE U.S. SUPREME COURT , 11TH CIRCUIT COURT OF APPEALS , AND OTHER COURTS OF APPEALS ,BEFORE AND AFTER CONFIRMING BY WAY OF PETITION FOR PANEL REHEARING ,THAT THE PANEL WAS AWARE OF ALL POINTS OF LAW AND FACT, DETERMINING THAT THE DEFENDANT DISTRICT COURT JUDGE'S FAILURE TO RECUSE WAS HARMLESS ERROR BECAUSE THE DISTRICT COURT IMPROPERLY DISMISSED THE COMPLAINT FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED

The plaintiff/ appellant incorporates all of the arguments and facts above and below.

There was no failure to state a claim by the plaintiff. The judge knowingly recharacterized the complaint , without warning that the appeal would be foreclosed ,under 1983 ONLY, instead of the statutes raised by the plaintiff. Had the judge properly and liberally construed the complaint as discussed above , under the appropriate statutes, relief was required.

The District court failed to address this issue or inferred immunity for count 1 conduct when

raised pursuant to uscs 1981, 1985, 1986, and 2000a.

This court failed to address this issue or inferred immunity for count 1 conduct when raised pursuant to uscs 1981, 1985, 1986, and 2000a.

In re Shelton holds, particularly regarding pro se litigants, that:

"[D]istrict courts should not recharacterize a motion purportedly made under some other rule as a motion made under § 2255 unless (a) the movant, with knowledge of the potential adverse consequences of such recharacterization, agrees to have the motion so recharacterized, or (b) the court finds that, notwithstanding its designation, the motion should be considered as made under § 2255 because of the nature of the relief sought, and offers the movant the opportunity to withdraw the motion rather than have it so recharacterized." Unless such a warning is provided, a re-characterized § 2255 motion must not be counted against the prisoner for purposes of the bar on successive motions."

This rationale applies to any proceeding , as liberal construction requires identifying a route to relief.

See Sconiers v. Lockhart, 946 F.3d 1256 11th cir 2020

"For purposes of our review of the district court's entry of summary judgment, we accept Sconiers's

version of the facts as true, affording all justifiable inferences to Sconiers."

"Whether Sconiers can establish that the defendants did what he alleges is something he must prove to a jury if his case survives summary judgment. So we set forth here only Sconiers's side of the story."

See Pourmoghani-Esfahani v. Gee , 625 F.3d 1313, 1315 (11th Cir. 2010)

"Because Sconiers proceeded *pro se* in the district court, we liberally construe his pleadings". *Trawinski v. United Techs.* , 313 F.3d 1295, 1297 (11th Cir. 2002)

Perry v. Thompson , 786 F.2d 1093, 1095 (11th Cir. 1986) (per curiam) ("Plaintiff alleged specific facts in his sworn complaint and they were required to be considered in their sworn form.").

Here , the court knowingly construed as 1983 ONLY , to evade the claims made by the plaintiff, or inferred immunity for count 1 conduct when raised pursuant to uscs 1981, 1985, 1986, and 2000a.

a. The plaintiff/ appellant incorporates all of the arguments and facts above and below.

"A complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that a 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, 78 S. Ct. 99 (1957)

The complaint was raised pursuant to

b. 42 USCS 2000a , PROHIBITION AGAINST DISCRIMINATION OR SEGREGATION OF PLACES OF ACCOMODATION,

2. 42 USCS 1981 , EQUAL RIGHTS UNDER THE LAW,

3. 42 USCS 1985 , CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS,

4. 42 USCS 1986, ACTION FOR NEGLECT TO PREVENT CONSPIRACY,

5. 42 USCS 1983 , ACTION FOR DEPRIVATION OF CIVIL RIGHTS,

6. BREACH OF CONTACT, TUCKER ACTS.

c. The plaintiff complained of an overarching conspiracy, count 1, to interfere with civil rights which resulted in attempted murder for assertion of rights resulting in traumatic brain injury, and a failure to prevent the conspiracy , none of which includes judicial or prosecutorial acts.

The plaintiff also complained of a subconspiracy , count 2, to predetermine the outcome of judicial proceedings, an overt act, to conceal the acts of the overarching conspiracy to interfere with civil rights. The acts defined in the subconspiracy may be judicial in nature, but immunity does not

extend to individuals conspiring in individual capacities.

d. The plaintiff complained of various frauds and deprivations throughout his federal habeas proceedings pursuant to the secret sub conspiracy to predetermine the outcome of judicial proceedings which was an act to conceal the over arching secret conspiracy to interfere with civil rights .

e. The District court NEVER opined upon whether the plaintiff whether the can prove any set of facts in support of his claim which would entitle him to relief.

See Williams v. Bishop, 732 F.2d 885 | 11th Circuit
"Concluding that the grant of summary judgment in favor of two of the three named defendants was not an appealable final judgment because it disposed of "fewer than all the claims or parties"

In reviewing a complaint dismissed for lack of jurisdiction or for failure to state a claim, the appellate court must consider its allegations as true. *Cooper v. Pate,* 378 U.S. 546, 84 S.Ct. 1733, 12 L.Ed.2d 1030 (1964); *Reeves v. City of Jackson, Mississippi,* 532 F.2d 491, 493 (5th Cir. 1976); *Spector v. L. Q. Motor Inns, Inc.,* 517 F.2d 278, 281-82 (5th Cir. 1975), *cert. denied,* 423 U.S. 1055, 96 S.Ct. 786, 46 L.Ed.2d 644 (1976). Moreover, pro se complaints are held to less stringent standards than formal pleadings

drafted by lawyers. *Haines v. Kerner,* 404 U.S. 519, 92 S.Ct. 594, 596, 30 L.Ed.2d 652 (1972).

The district court did not liberally construe . Instead the District court , altered the claims . For example alleging the petitioner sought release from incarceration. The claims were altered by exclusion of points of law, facts , parties and more. The court simply orchestrated the denial of relief.

After the dismissal , this plaintiff complained to lower court and this court regarding this issue, because the court had not addressed all of his claims. In fact , pursuant to the ongoing sub conspiracy , no court has ever addressed all of the plaintiff's / appellant's claims for 7 years.

Even in this proceeding, after this court attempted to identify the complaint as only a 1983 claim, or inferred immunity for count 1 conduct when raised pursuant to uscs 1981, 1985, 1986, and 2000a, the appellant though due diligence, made effort to properly identify the claims.

f. The complaint was captioned et. Al. , and the district court was so "trigger happy" to evade the complaint , that there was no inquiry into who the remaining defendant's are or inferred immunity for count 1 conduct when raised pursuant to uscs 1981, 1985, 1986, and 2000a, for ALL persons .

g. A 42 USCS 1986 failure to prevent conspiracy , conspiracy to interfere with civil rights, attempted murder , are unrelated to the judicial

process in relation to the plaintiff in relation to the cases before the court.

h. Neither the District court , nor this court identified all claims, all parties , and whether the plaintiff would or would not be able to prove any set of facts in support of these claims.

And some parties were private persons.

See Dennis v. Sparks, 449 U.S. 24 (1980) 449 U.S. 24 US Supreme Court

"The action against the private parties accused of conspiring with the judge is not subject to dismissal. Private persons, jointly engaged with state officials in a challenged action, are acting "under color" of law for purposes of § 1983 actions. And the judge's immunity from damages liability for an official act that was allegedly the product of a corrupt conspiracy involving bribery of the judge does not change the character of his action or that of his coconspirators. Historically at common law, judicial immunity does not insulate from damages liability those private persons who corruptly conspire with a judge. Nor has the doctrine of judicial immunity been considered historically as excusing a judge from responding as a witness when his coconspirators are sued, even though a charge of conspiracy and judicial corruption will be aired and decided. *Gravel v. United States,* 408 U. S. 606, distinguished. The potential harm to the public from denying immunity to coconspirators if the factfinder mistakenly

upholds a charge of a corrupt conspiracy is outweighed by the benefits of providing a remedy

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against those private persons who participate in subverting the judicial process and, in so doing, inflict injury on other persons. Pp. 449 U. S. 27-32."

ARGUMENT 11- THE COURT CREATED A SPLIT BETWEEN PERSUASIVE AND PRECEDENTIAL AUTHORITY "SO FAR DEPARTING FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS", IN CONFLICT WITH DESICIONS OF THE U.S. SUPREME COURT , 11TH CIRCUIT COURT OF APPEALS , AND OTHER COURTS OF APPEALS ,BEFORE AND AFTER CONFIRMING BY WAY OF PETITION FOR PANEL REHEARING ,THAT THE PANEL WAS AWARE OF ALL POINTS OF LAW AND FACT, IMPROPERLY DETERMINING THAT THE VIOLATION COMPLAINED OF AROSE FROM AND ACTUALLY WERE JUDICIAL ACTS. ALL PRECEDENT MAKES CLEAR THAT A CONSPIRACY EFFECTUATING AN ULTIMATE ACT COMPLAINED OF THAT IS

NOT A JUDICIAL ACT DOES NOT OVERCOME IMMUNITY DEFENSES. IN THIS CASE , THE ULTIMATE ACT WAS ATTEMPTED MURDER RESULTING IN TRAUMATIC BRAIN INJURY as to COUNT 1 . THE COURT ERRED IN DETERMINING THAT ATTEMPTED MURDER WAS JUDICIAL OR PROSECUTORIAL IN NATURE

The plaintiff/ appellant incorporates all of the arguments and facts above and below.

This presumption is incorrect because the defendants engaged in the conspiracy to interfere with civil rights prior to issuance of arrest warrants, and said agreement was to use ANY tactic, from misrepresentation to murder and everything in between to interfere with the civil rights of this non white litigant.

The defendants did so.

The overt acts pursuant to the subconspiracy to predetermine the outcome of judicial proceedings , that may be considered judicial in nature , only were engaged to CONCEAL such violations. The overarching conspiracy was to interfere with civil rights by ANY tactic , from misrepresentation to murder and everything in between. The sub conspiracy , to predetermine the outcome of judicial proceedings , was an act to conceal. The ultimate act of the conspiracy to interfere with civil rights was attempted murder causing

traumatic brain injury. The failure to prevent conspiracy is not a judicial act.

See Ashelman v Pope Ashelman v. Pope, 793 F.2d 1072 9th circuit , *Dykes v Hoseman,* 776 F.2d at 946. 11th Circuit , *Dennis v. Sparks,* 449 U.S. 24, 101 S.Ct. 183, 66 L.Ed.2d 185 (1980), *Holloway,* 765 F.2d at 522. *See also Krempp v. Dobbs,* 775 F.2d 1319, 1321 (5th Cir. 1985)

"Whether a judge's actions were made while acting in his judicial capacity depends on whether: (1) the act complained of constituted a normal judicial function; (2) the events occurred in the judge's chambers or in open court; (3) the controversy involved a case pending before the judge; and (4) the confrontation arose immediately out of a visit to the judge in his judicial capacity. *Scott v. Hayes,* 719 F.2d 1562, 1565 (11th Cir. 1983)."

See SIBLEY v. LANDO | 437 F.3d 1067 | 11th Cir. | 2005

When applying the Sibley test

1.

a. Conspiring to interfere with civil rights, to kidnapp, and to murder as alleged in the complaint ,is not a judicial act.

b. Kidnapping , as alleged in the complaint , is not a judicial act.

c. Attempted murder, resulting in Traumatic Brain Injury, as alleged in the complaint , is not a judicial act.

2. the events did not occur in the judge's chambers or in open court.

3. it may be possible to say that the controversy involved a case pending before the court.

4. the confrontation did not arise immediately out of a visit to the judge in his judicial capacity.

If immunity exists for the overt acts of count 2, it does NOT include conspiring and the ultimate acts of kidnapping and attempted murder of the plaintiff of count 1.

The plaintiff filed suit for the wrongs of conspiracy to interfere with civil rights, kidnapping, and attempted murder and sought damages. Count 1

The plaintiff filed suit for declatory and injunctive relief as to count 2.

ARGUMENT 12- THE COURT CREATED A SPLIT PERSUASIVE AND PRECEDENTAIL AUTHORITY "SO FAR DEPARTING FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS" , IN CONFLICT WITH DESICIONS OF THE U.S. SUPREME COURT , 11TH CIRCUIT COURT OF APPEALS , AND OTHER COURTS OF

APPEALS ,BEFORE AND AFTER CONFIRMING BY WAY OF PETITION FOR PANEL REHEARING ,THAT THE PANEL WAS AWARE OF ALL POINTS OF LAW AND FACT, DETERMINING THAT IT WAS NOT ERROR NOT TAKING JUDICIAL NOTICE OF ADMISSIONS and ERROR DETERMINING SUIT IS SUBJECT TO DISMISSAL EVEN THOUGH "OTHER PRIVATE PERSONS" ARE DEFENDANTS (complaint captioned et. Al. And caption was amended)

The plaintiff/ appellant incorporates all of the arguments and facts above and below.

a. If the judicial notice not taken was related to admissions :

Rule 201. Judicial Notice of Adjudicative Facts
(c) Taking Notice. The court:

(1) may take judicial notice on its own; or

(2) must take judicial notice if a party requests it and the court is supplied with the necessary information.

The Rule provides that, at any stage of the proceedings, a federal court of appeals may take judicial notice of "adjudicative facts" that are not subject to reasonable dispute because they are "generally known within the territorial jurisdiction of the trial court" or "can be

accurately and readily determined from sources whose accuracy cannot reasonably be questioned."

b. If the judicial notice not taken was related to the elaborated complaint and the "more" complete list of parties as the original caption was et.al. :

The courts erred by not considering ALL of the parties involved, the same as the failure to consider ALL statutes the plaintiff/ appellant used to raise his claims. The district was only concerned about achieving dismissal. Rule 201 requires that the court take judicial notice.

See Williams v. Bishop, 732 F.2d 885 | 11th Circuit
"Concluding that the grant of summary judgment in favor of two of the three named defendants was not an appealable final judgment because it disposed of "fewer than all the claims or parties"

Unlike prosecutors who enjoy absolute immunity and law enforcement officers who are protected by qualified immunity, municipalities sued under § 1983 enjoy neither absolute nor qualified immunity.

See Owen v. City of Independence, 445 U.S. 622 (1980)
"A municipality has no immunity from liability under § 1983 flowing from its constitutional violations, and may not assert the good faith of its officers as a defense to such liability. Pp. 445 U. S. 635-658."

See also Monell v. Department of Soc. Svcs. :: 436 U.S. 658 (1978)

The Monell doctrine was decided in *Monell v. Department of Social Services of the City of New York* (436 U.S. 658 (1978)), and gives victims of police misconduct a way to seek recovery in civil lawsuits.

Under the Monell doctrine, a municipality may be held liable for an officer's actions when the plaintiff establishes the officer violated their constitutional right, and that violation resulted from an official municipal policy, an unofficial custom, or because the municipality was deliberately indifferent in a failure to train or supervise the officer.

The U.S. Supreme Court first recognized municipal liability in police misconduct when it interpreted the term 'person,' as used in section 1983, to include a municipal government.

"It is well-established that a municipality may be held liable under 42 U.S.C. §(s) 1983 for a single illegal act committed by one of its officers, but not on a theory of respondeat superior. Instead, Section(s) 1983 liability may be premised upon a single illegal act by a municipal officer only when the challenged act may fairly be said to represent official policy, such as when that municipal officer possesses final policymaking authority over the relevant subject matter."

Scala v. City of Winter Park, 116 F.3d 1396 11th Circuit 1997

The caption read on amendment :

UNITED STATES OF AMERICA, STATE OF FLORIDA, US ATTORNEY GENERAL, FLORIDA ATTORNEY GENERAL, FLORIDA STATE ATTORNEY, FLORIDA DEPTARTMENT OF CORRECTIONS, ORANGE COUNTY, SUWANNEE COUNTY, DIXIE COUNTY, TAYLOR COUNTY, OKALOOSA COUNTY, ESCAMBIA COUNTY, CITY OF ORLANDO, CITY OF LIVE OAK, CROSS CITY, CITY OF PERRY, CITY OF CRESTVIEW, CITY OF CENTURY, PAUL BYRON, JILL PRYOR, JUDICIAL QUALIFICATIONS COMMISSION, THE FLORIDA BAR, 5TH DCA, 1ST DCA, 2CND JUDICIAL CIRCUIT, 9TH JUDICIAL CIRCUIT, 3RD JUDICIAL CIRCUIT, ORANGE COUNTY SHERRIFF, US DEPARTMENT OF JUSTICE, FLORIDA SUPREME C,OURT, F.D.L.E., P.A.C.E.R., D.F.S., BONNIE JEAN PARRISH, ORANGE COUNTY CLERK, G. KENDALL SHARP, DANIEL ISSICK, ROY DALTON, ALL ENTITIES INVOLVED IN THE CRIMINAL JUSTICE SYSTEM WITHIN 11TH CIRCUIT BOUNDARIES , CENTURION OF FLORIDA LLC ,ET. AL.

Defendants, respondents, illegal restrainors, * in official and individual capacities

See Dennis v. Sparks, 449 U.S. 24 (1980) 449 U.S. 24 US Supreme Court

"The action against the private parties accused of conspiring with the judge is not subject to dismissal. Private persons, jointly engaged with state officials in a challenged action, are acting "under color" of law for purposes of § 1983 actions. And the judge's immunity from damages liability for an official act that was allegedly the product of a corrupt conspiracy involving bribery of the judge does not change the character of his action or that of his coconspirators. Historically at common law, judicial immunity does not insulate from damages liability those private persons who corruptly conspire with a judge. Nor has the doctrine of judicial immunity been considered historically as excusing a judge from responding as a witness when his coconspirators are sued, even though a charge of conspiracy and judicial corruption will be aired and decided. *Gravel v. United States,* 408 U. S. 606, distinguished. The potential harm to the public from denying immunity to coconspirators if the factfinder mistakenly upholds a charge of a corrupt conspiracy is outweighed by the benefits of providing a remedy

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against those private persons who participate in subverting the judicial process and, in so doing, inflict injury on other persons. Pp. 449 U. S. 27-32."

CONCLUSION

In view of these conflicts and the frequency with which parties convey causes of action, these issues present substantial questions ripe for Supreme Court review.

As the Supreme Court explained in applying a similar standard, the petitioner "must demonstrate that the issues are debatable among jurists of reason. "Barefoot v. Estelle, 463 U.S. 880, 893 n.4 (1983). That standard is easily satisfied here.

The United States Supreme Court must prevent injustice, not by determining the facts left for the jury to determine , but to consider the petitioner's facts as true , and even handedly apply the law the same in this case of non white litigant as it would for white persons as the case(s) are not subject to dismissal or affirmance on appeal, as already determined by the law of the land and call up the record in this case(s).

CERTIFICATE AND UNNOTARIZED OATH

I Vinodh Raghubir, swear under penalties of perjury, that the foregoing is true , correct and not meant to mislead. I also certify that a true , correct copy has been forwarded.

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