

**ORIGINAL**

NO. **23-316**

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**IN THE  
SUPREME COURT OF THE UNITED STATES**

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**FILED**  
**MAY 31 2023**  
OFFICE OF THE CLERK  
SUPREME COURT, U.S.

**CURTISS DAVIS III,**

**Petitioner,**

**v.**

**PEDRO BONILLA,  
et al,**

**Respondent(s).**

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

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**PETITION FOR WRIT OF CERTIORARI**

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**CURTISS DAVIS, III  
Petitioner**

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**June 15, 2023**

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## QUESTIONS PRESENTED

Whether both the US District and US Court of Appeals had inequitably applied US laws to deny restitution; as well as, a default summary judgment and punitive damages in regards to the federal civil actions filed by the Petitioner (Mr. Davis).

and; that rulings to dismiss his civil action deviated from normal appellate practices by the Fourth Circuit Court to purposely deny an appeal as partisan support to "sanctuary policies" enforced by the local government of Fairfax County, VA.

and; that the enforcement of these "sanctuary policies" by Fairfax County violated the civil liberties of US citizens to assist illegal immigrants in defrauding US government programs in receiving benefits to reside legally in the United States.

and; that officers of the Fairfax County Police Department (FCPD) provided a false testimony to a magistrate to unconstitutionally attain a warrant to arrest an agent of the US government to assist undocumented immigrants evade apprehension and potential deportation by federal law enforcement.

and; Edwin C. Roessler Jr., sought the assistance from Journalists from the Washington Post and WUSA9 News to systematically disseminate, **the protected identity**, of a US agent to the public to intentionally compromise covert roles and investigative activities in support to US Intelligence Agencies, which violates the Intelligence Identities Protection Act of 1982 (50 USC 421-426).

## **RESPONDENT PARTIES**

Edwin C. Roessler Jr., Former Chief of Police Fairfax County, VA

Clinton E. Beach, Detective, Fairfax County, VA

Jeremy Hoffman, Detective, Fairfax County, VA

El Carbonero, LLC

Susan Perez  
Ana Elizabeth Rivera-Cruz

The Washington Post

WUSA-TV

## **RELATIVE CASES**

Davis v. Roessler, No. 1:19-cv-1254, U.S. District Court for the Eastern District of Alexandria. Judgment entered December 10, 2019, to dismiss based on statute-of-limitation grounds, by Judge Rossie D. Alston, Jr.

Davis III v. Roessler, No. 1:20-cv-0992, U.S. District Court for the Eastern District of Alexandria. Judgment entered August 4, 2022, to deny motions for default and summary judgments, by Judge Theresa C. Buchanan.

Davis v. Roessler, No. 22-1179, U.S. Court of Appeals for the Fourth Circuit. Judgment entered August 22, 2022, by Wynn, Thacker, and Heytens, Circuit Judges.

Davis v. Bonilla, No. 22-2003, U.S. Court of Appeals for the Fourth Circuit. Judgment entered March 24, 2023, by Gregory, Rushing, and Floyd, Circuit Judges.

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## **PETITION FOR A WRIT OF CERTIORARI**

Petitioner Curtiss Davis III respectfully requests the issuance of a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit.

### **DECISION BELOW**

The decision of the United States Court of Appeals for the Fourth Circuit is an unpublished opinion (4th Cir. 2022), Doc: 11,USCA4 22-2003

### **JURISDICTION**

The Fourth Circuit entered judgment on March 24, 2023. A timely petition filed on March 7, 2023, for rehearing extended the time in which to file this petition until June 24, 2023. This Court's jurisdiction is invoked under 28 U.S.C. § 1254.

## **FEDERAL RULE INVOLVED**

### **28 U. S. C. § 2101(e)**

This case is of public importance to justify deviation from normal appellate practices and requires immediate determination in this Court.

### ***Federal Rule 55(a)(b) Default; Default Judgment***

#### **(a) ENTERING A DEFAULT.**

When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default.

#### **(b) ENTERING A DEFAULT JUDGMENT.**

By the Clerk. If the plaintiff's claim is for a sum certain or a sum that can be made certain by computation, the clerk—on the plaintiff's request, with an affidavit showing the amount due—must enter judgment for that amount and costs against a defendant who has been defaulted for not appearing and who is neither a minor nor an incompetent person.

***Federal Rules of Civil Procedure 12(b)(6);*** Failure to state a claim upon which relief can be granted.

## STATEMENT OF THE CASE

The Petitioner (Curtiss Davis III), dedicated 21 years of his professional career protecting not only the country; but our national defense leaders, military facilities, and critical defense assets around the world. A highly decorated Soldier and Special Agent who was awarded the Bronze Star and two Defense Meritorious Service Medals in recognition of his service to this Nation.

On 22 December 2015, Defendants Susan Perez, Ana Elizabeth Rivera-Cruz, and Pedro Bonilla, illegally employed by El Carbonero, LLC, used the ethnicity of Mr. Davis, who is African American, as evidence in making a 911 call to police to mislead local authorities stating they were victims of an armed robbery to defraud US Immigration Services, and later attain visas to ultimately evade apprehension and deportation from the United States. The next day, Mr. Davis was arrested, not for larceny, but on unrelated charges of abduction, extortion, indecent exposure, and attempted forcible sodomy following an incident in a Lorton, Virginia restaurant (The El Carbonero).

Proceeding pro se, Mr. Davis sued the Respondents, Roessler, Beach, Hoffman, the restaurant, employees of the restaurant, and two media outlets that reported and conspired in his unlawful apprehension. This complaint was first brought into the US District Court on September 30, 2019, stating that Mr. Davis was employed as a Special Agent for the Department of Defense; *See Davis v. Roessler*, No. 1:19-cv-1254 (E.D. Va.), when employees at a Lorton, Virginia restaurant called 911 alerting police of an alleged armed robbery, larceny (stolen cash).



Following that 911 call, Fairfax County police officers, Defendants Beach and Hoffman, arrested Mr. Davis two days before Christmas, and transported him to the Fairfax County Police Station, where Mr. Davis was detained for fourteen days without bond, due to the attempted forcible sodomy charge.

On December 24, 2015, the Fairfax County Police Department ("FCPD") released Mr. Davis' photograph to the media stating there was probable cause to arrest a federal agent for the alleged offenses. The FCPD's media statement "created a false narrative' about him and impugned his reputation in the public eye.

Pending the resolution of these offenses in a Virginia state court, Mr. Davis was terminated from his position, and lost his security clearance, retirement benefits, and retirement savings.

On March 2, 2016, at Mr. Davis' preliminary hearing the charges of indecent exposure and attempted forcible sodomy were dismissed. In October of 2016, following a jury trial, he was acquitted of the remaining charges against him. Ultimately, Mr. Davis' charges were expunged on August 22, 2017.

In November of 2017, Mr. Davis reported his concerns as to how his case had been handled to the Federal Bureau of Investigation ("FBI"). He expressed concern that race was an underlying factor in his arrest; however, the FBI referred the matter to Defendant Edwin C. Roessler, Jr., Chief of Police of the FCPD.

On March 29, 2018, the FCPD sent a letter to Mr. Davis reporting its findings that the officers involved, Defendants Beach and Hoffman, acted lawfully and upon probable cause. However, the letter failed to detail; as to how, the officers established PC to obtain an arrest warrant for (abduction, extortion, and sexual offenses) after responding to a 911 call of a purported robbery (larceny).

When Mr. Davis brought his Complaint on September 30, 2019, he asserted claims for:

Title 42 of U.S. Code, Section 1983—Civil Action for Deprivation of

- a. Civil Rights (Unlawful Detention)
- b. Rights to Due Process (Intentional Negligence & Tampering with Evidence)
- c. Falsifying Police Reports

In addition, he also sought relief “from the local Government of Fairfax County Virginia for defamation (false statements), wrongful detention, and intentional negligence (violation of constitutional rights to due process).”

Defendant Roessler moved to dismiss each of these causes of action, arguing that the claims were time-barred and failed to state any valid basis for relief under Federal Rule of Civil Procedure 12(b)(6). On December 10, 2019, the US District Court granted Defendant Roessler’s Motion to Dismiss on statute-of-limitations grounds.

#### **I. The Fairfax County Government Arrested Mr. Davis For a Political Cause and Not On Probable Cause:**

On August 25, 2020; Mr. Davis filed a new lawsuit in the US District Court claiming that on 22 December 2015, FCPD officers, complied with a **sanctuary**

**policy**, to provide a false testimony to a magistrate to detain Mr. Davis (a federal agent), after they responded to a 911 call of an allege robbery falsely reported by undocumented immigrants.

Mr. Davis claimed he was a victim of a politically motivated arrest and prosecution linked to a "backdoor amnesty program" enforced by the local government of Fairfax County, VA.

The Fairfax County government hired a liberal Chief of Police, Roessler, to utilize his position to direct FCPD officers to defy US immigration enforcement by assisting undocumented immigrants to avoid federal law enforcement, while the local government incentivized protection to illegal immigrants from deportation in exchange for police reports claiming to be victims and/or witnesses of crimes.

Mr. Davis stated that the Fairfax County Prosecutors knowingly take false police reports involving "illegal immigrants" and force criminal cases, lacking sufficient prosecutorial evidence, through the legal system to put undocumented immigrants on the path to US citizenship.

The accused, Mr. Davis, was held in confinement while the prosecutors and the FCPD provided false testimony to magistrate judges to charge him with offenses that made his accusers eligible for (U) visas under the **US Immigration Victim/Witness Program**.

Although the criminal case against Mr. Davis terminated in his favor, he claimed that his accusers were still able to attain letters of cooperation from the Fairfax County government.

Mr. Davis claimed that his accusers used the letters to defraud the federal government to attain (U) visas from US Immigration Services to evade deportation and ultimately reside legally in the United States. Mr. Davis also stated that with a (U) visa his accusers are able to become US citizens in four years making them eligible to register and vote in US elections.

After the charges against Mr. Davis were expunged, he reported the handling of the Fairfax County government's allegations resulting in his arrest to SA Lindsay Coulter and SA Christopher Hartley, of the Federal Bureau of Investigations (FBI), Northern Virginia RA, Manassas, VA, Tel:(703) 686-6000.

On 5 November 2020, Edwin C. Roessler Jr, resigned as the Chief of Police for the Fairfax County Police Department telling the public that his sudden resignation was part of a planned retirement.

#### **Criminal Intelligence Perspective Linked To Civil Complaint:**

Chief Roessler arrested Mr. Davis to hide Fairfax County's misuse of federal funding used to protect human trafficking activities that funnel illegal foreign nationals undetected into Northern Virginia. As a result of the illegal trafficking, Fairfax County experienced an uptick in organized crime in migrant communities,

and instead of protecting the county from the organized crime, the FCPD protected the organized crime in Fairfax County.

Chief Roessler trained the FCPD to comply with a "General Order Policy" to ignore the federal warrants/detainers issued by federal agents to apprehend illegal foreign nationals in the United States. As a result, crime increased in Northern Virginia, and as a political strategy Fairfax County incentivized protecting illegal migrants from deportation for their reports of being victims and/or witnesses of the criminal activities in the communities purposely being induced by the local government.

However, when the criminal activities involving illegal migrants affect US citizens due to the FCPD's negligence in complying with federal warrants, Chief Roessler, and the local government protect themselves from liability by creating false narratives to arrest American victims.

Fairfax County prosecutors seek indictments with insufficient evidence to turn victims (Mr. Davis) into criminals to conceal a "sanctuary" agenda that put Americans at risk for "constitutional injury", as the county strived to protect illegal migrants from deportation, and put them on a path to US citizenship by means of the US Immigration Service's Victim/Witness (U) Visa Program.

The local media also covered Mr. Davis' arrest. Specifically, the Washington Post publishing two articles related to the incident, one on December 24, 2015 and another on January 7, 2016.

The television station, WUSA9 News, also reported on Mr. Davis' arrest, and posted his mugshot, on January 5, 2016. Mr. Davis stated that the news outlets had spread the "false narrative" FCPD developed about him, and that WUSA9 News obtained Mr. Davis' "leaked" home address from Defendant Roessler, and sent a reporter, Andrea McCarren, to Mr. Davis' residence and that WUSA9 News also gave the narrative to another local cable news outlet and the website "mugshots.com".

Mr. Davis also stated the media outlets purposely censored from their publications his response, as to why, he believed he was detained, and the Virginia court's dismissal, acquittal, and later expungement of the allegations that damaged his reputation and violated his civil rights.

Mr. Davis also claimed both the Washington Post & WUSA9 News conspired in censoring the names of the accusers and the police officers involved in his arrest, shielding their identities from the public to assist in protecting them, the Fairfax County government, and the media from potential legal liability.

**Mr. Davis' Legal Claims & Damages:**

(1.) Mr. Davis brings several claims against the Respondents. A claim against the FCPD Defendants under 42 U.S.C § 1983 for a violation of his Fourth Amendment rights. He also brings claims against the FCPD Defendants under the Fourteenth Amendment's Equal Protection Clause and Title VI of the Civil Rights Act of 1964.

(2.) Mr. Davis claimed conspiracy to defraud the federal government, in violation of 18 U.S.C § 371, against the Fairfax County Defendants, and the restaurant who falsely reported him to the police.

(3.) He also claimed state-law of civil conspiracy and defamation pursuant to Va. Code Ann. §§ 18.2-499 and 18.2-500, against the FCPD Defendants and the media (the Washington Post & WUSA-TV).

(4.) Mr. Davis is seeking compensatory damages, punitive damages, and other relief, including the deportation of his accusers. These Defendants—Susan Perez, Ana Elizabeth Rivera-Cruz, Pedro Bonilla, and El Carbonero, LLC—have not filed motions to dismissed in regards to this civil action, and were in default.

**Entry of Default Filed by Mr. Davis:**

On 28 March 2022, in accordance with Mr. Davis' request to enter default the Clerk of the US District Court entered the default, (Dkt 63), of El Carbonero, LLC and Pedro Bonilla for failure to plead or otherwise defend in accordance with Rule 55(a)(b) Federal Rules of Civil Procedure.

**II. The District Court's Rulings to Dismiss Mr. Davis's Claims Denying both a Summary and Default Judgment:**

Magistrate Judge Theresa Buchanan on August 4, 2022.( Dkt. 68), in this case involving claims brought by pro se Plaintiff Curtiss Davis III under 42 U.S.C. § 1983, the Fourteenth Amendment's Equal Protection Clause, Title VI of the Civil Rights Act of 1964, conspiracy to defraud the federal government in violation of 18 U.S.C. § 371, and state-law claims of civil conspiracy and defamation, Judge

Buchanan recommended that the District Court deny Mr. Davis's Motion for Default Judgment, declining to award him compensatory damages, punitive damages, and the requested equitable relief affecting Defendants Perez, Cruz, and Bonilla's immigration documentation.

On August 18, 2022, Mr. Davis objected to Judge Buchanan's decision, filing a Motion to overturn the recommendation to deny the Default Judgment Hearing. ( Dkt. 70). However, the district court again rejected Mr. Davis' motion proclaiming the allegations in his complaint are "so far-fetched" that they would fail to meet Federal Rules of Civil Procedure 12(b)(6)'s plausibility standard. The Court also stated that Mr. Davis has not marshaled any evidence suggesting he's entitled to monetary or equitable relief by the District Court; therefore, the Court ordered to deny both a summary and a default judgment, and closed the civil action granting Mr. Davis with the option to appeal the District Court's decision within 30 days.

### **III. The Fourth Circuit's Affirmance of the District Court's Ruling:**

On September 18, 2022, Mr. Davis requested to appeal the district court's order (Dk #72); granting the motions to dismiss filed by certain Defendants in his pro se civil action. The 4th Circuit Court of Appeals stated they may exercise jurisdiction only over final orders, 28 U.S.C. § 1291, and certain interlocutory and collateral orders, 28 U.S.C. § 1292; Fed. R. Civ. P. 54(b); *Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541, 545-46 (1949).



The 4<sup>th</sup> Circuit Court stated the order that Davis seeks to appeal is neither a final order, given that litigation on his remaining claims against other Defendants is ongoing, nor is it an appealable interlocutory or collateral order. Accordingly, we, the 4th Circuit Court, dismiss Mr. Davis' request to appeal for lack of jurisdiction, and dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court, and argument would not aid the decisional process.

In October of 2022, Mr. Davis requested a rehearing and rehearing en banc for the 4th Circuit Court to reconsider the decision to reject his appeal due to a "lack of jurisdiction". On appeal, Mr. Davis argued the reason he contested the US District Court's decision was because the civil case was terminated without a default hearing as to the remaining defendants who failed to respond to this civil action.

Therefore; the Appellate Court's decision to deny an appeal due to a lack of jurisdiction given that litigation on remaining defendants was ongoing was decided in error, because the default litigation hearing as to the remaining defendants was denied by the district court and the civil action had already been closed prior to submitting an appeal to the 4th Circuit Court.

However, again the Appellate Court denied Mr. Davis' request for rehearing and rehearing en banc, and filed an order stating that Curtiss Davis III, appeals the district court's order accepting the recommendation of the magistrate judge, denying Davis' motion for default judgment, and denying Davis' other pending

motions. We, the 4th Circuit Court, have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. Davis v. Bonilla, No. 1:20-cv-00992-RDA-WEF (E.D. Va. Aug. 19, 2022).

We dispense with oral arguments because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

On March 7, 2023, Mr. Davis again requested a rehearing and rehearing en banc to have the appellate court reconsider their decision affirming Judge Buchanan's decision to deny a default hearing and summary judgment. The 4th Circuit Court, however, on March 24, 2023, immediately rejected his request without legal explanation.

### **REASONS FOR GRANTING THE WRIT**

The US Supreme Court Should Grant Certiorari because this case is of such imperative public importance to justify deviation from normal appellate practices and requires immediate determination in this Court. 28 U. S. C. § 2101(e).

A Supreme Court ruling is necessary to clarify the need for a "**Justice for Victims of Sanctuary Cities Act**", and to clarify the Federal Rules as it pertains

to Default Judgments, and as to Rules of Federal Civil Procedures (12)(b)(6), and Final Orders, 28 U.S.C. § 1291, and Certain Interlocutory and Collateral Orders, 28 U.S.C. § 1292; Fed. R. Civ. P. 54(b); (Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541, 545-46 (1949))

Mr. Davis states the Appellate Court purposely dismissed his civil action denying summary and default judgments because of the **immigration status** of his accusers and to protect them, the state, and Fairfax County from liability for enforcing "sanctuary policies".

The Fourth Circuit Court of Appeals violated Mr. Davis' 1st Amendment Right when they censored and restricted from public access his testimony for an appeal. His testimony contained details of the damages he sustained by his accusers in this case, as well as, the collateral damage that occurred as a result of his constitutional injuries.

Because of the false statements and malicious actions of the Respondents in this case lives were lost to include Mr. Davis' mother and 13 US service members in Afghanistan. As a result of Mr. Davis being unlawfully confined he was removed from his government position as part of a unique task force that protected US Defense and active duty military personnel from acts of **terrorism**. *(18 U.S. Code 2388 - Activities affecting armed forces during war)*

The magistrate judges of the US courts in the state of Virginia know that Mr. Davis' civil rights had been violated by Fairfax County and that his arrest should have never been permitted to go to a criminal trial.

However, instead of protecting Mr. Davis, a Veteran, a US citizen, from constitutional injury, the Magistrate Judges assumed the role as Defense Attorneys for the Defendants, and chose to protect the accusers, the media, and the government of Fairfax County from being accountable proclaiming that Mr. Davis' allegations are "Far Fetched" and that the lower courts lack jurisdiction to grant Mr. Davis relief for his injuries.

As for the above reasons the Petitioner (Mr. Davis) is seeking the assistance of the US Supreme Court to re-evaluate the decisions made by the Magistrate Judges of the US District Court and US Court of Appeals to deny a default summary judgment and punitive damages in regards to the federal civil actions filed by Mr. Davis.

and; for the US Supreme Court to determine if the rulings to dismiss these civil actions were decided unfairly in support to "sanctuary policies" enforced by the local government of Fairfax County. Policies that deter federal apprehensions of undocumented immigrants for violations of US laws relating to illegal immigration. Policies that disregard the US constitution and give US citizens arrest records in order to protect illegal immigrants to abuse US government programs by reporting

false/inaccurate claims of being victims of crimes to local police in exchange for asylum and visas to evade deportation.

and, that the enforcement of these policies were used to seek out and unconstitutionally establish "probable cause" to detain federal agents of US Intelligence and Federal Law Enforcement Communities as part of the training enforced by the Chief of the Fairfax County Police Department.

and; that the Fairfax County government knowingly violated the US constitution as to the civil liberties of a US citizen, whom they identified as a federal agent, by fabricating criminal allegations against Mr. Davis, and charging him with offenses that assisted illegal immigrants in defrauding US government programs in receiving benefits putting them on the path to US citizenship.

and; that Defendants, Perez, Cruz, and Bonilla, who were illegally employed by the Defendant El Carbonero, LLC, used the ethnicity of Mr. Davis, who is African American, as evidence in a false police report to mislead the legal system and US Immigration stating they were victims of an armed robbery, to later defraud the victim/witness program in obtaining (U)visas to reside legally in the United States.

and; that Edwin C. Roessler Jr., as Chief of Police, sought the assistance from Journalists from the Washington Post and WUSA9 News to systematically disseminate, **the protected identity**, of a US agent to the public via news articles and television media, to intentionally compromise covert roles and investigative

activities in support to US Intelligence Agencies, which violates the Intelligence Identities Protection Act of 1982 (50 USC 421-426), and undermines national security. (*United States of America v. I, Lewis Libby*)

and; that the media conspired in violating journalism ethics in censoring all reporting of the court's dismissal, acquittal and later expungement of Mr. Davis' alleged offenses, and that this intentional censorship was done to maliciously defame his character and professional reputation. (*Va. Code Ann 18.2-499 and 18.2-500*).

and; that the media censorship directly assisted Fairfax County in deflecting from the public the misuse of federal funding, and the threat of "constitutional injury" that illegal immigration poses to US citizens, due to the enforcement of "sanctuary policies" by local governments in the United States.

#### **IV. (H.R. 515) - Justice for Victims of Sanctuary Cities Act of 2021**

Mr. Davis' civil action is of national interest to the American people. Local governments who operate as "sanctuary cities" have little regard for the US constitution, and are willing to confine US citizens, and risk national security to be able to use un-vetted foreign nationals as leverage in achieving political agendas. There is no political achievement worthy of risking the safety and the lives of US citizens, our troops, and national security professionals.

This country needs a US Supreme Court ruling to award restitution to US citizens who sustain injury by sanctuary municipalities who neglect to ensure the cooperation between federal and local law enforcement agencies to safeguard our communities.

There is a need for a civil and/or criminal remedy for individuals harmed by illegal immigrants that benefitted from policies enforced by sanctuary jurisdictions, and for other purposes linked to irresponsible politics that govern sanctuary cities.

### CONCLUSION

Mr. Davis respectfully requests that this Court issue a writ of certiorari.

Respectfully submitted,

*Curtiss Davis III*

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Petitioner

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June 15th, 2023