23-5007
NO.

ORIGINAL

IN THE SUPREME COURT

OF THE UNITED STATES OF AMERICA

Alexis Carberry Benson at 235 Straightaway Lane, Fort Mill, SC 29707
732-547-7370 , and Kevin Carberry at 4517 Kaylied Lane Fort Mill, SC 29707,
973-224-3954 and/on Behalf of their son KJC., a minor.
Pro Se'

Plaintiff

VS.

Molly Spearman Individually and on behalf of SCDOE. Barbara Drayton Individually James Epps individually and / on behalf of FORT MILL School District / York County District 4 and And Individuals, Amy Maziarz, Kristy Spears, Michele Branning, Anthony Boddie, Wayne Bouldin, Scott Frattaroli, Celia McCarter, Brian Murphy, Savannah Stager, Emma Sheppard, LaVonda Williams, Brittney Koback, Jennifer Grant, Douglas Dent, Jeffery Ewert, Monica Bohlen, Brian P Murphy, Mitchell Yell

Defendants

WRIT OF CERTIORARI

Special Education

The District Court of South Carolina & the 4th Circuit of Appeals

District Court of SC CIVIL ACTION NO. 0:22-614-SAL-SVH
Combined Benson I and Benson II

FOURTH Circuit of Appeals Case NO. 22-2104 and 22-2310

I. Questions Presented

Right to Counsel Preface:

IDEA Procedural Safeguards 1415 states:

"Any party * shall be accorded the right* to be accompanied and advised by counsel".

Setting a precedent to deny parents the right to counsel through IDEA, who additionally have already been granted in forma pauperis status, is dangerous for this country. If we can not protect our weakest then what does that say? Plaintiffs believe that this is a question that has national importance for the access of low income families and/or families in financial hardship, to be able to access equal justice.

Question #1

1. Should Plaintiffs/ Parents filing a Federal Complaint through IDEA Section 504 or ADA, be accorded the right to counsel when filing pro se' and/or in forma pauperis.

Jurisdiction Preface:

In the Wilkerman Vs Parma Supreme Court decision in 2007, the court came to a decision that the IDEA law states , " ANY party aggrieved" included the parents being able to represent their child, as well as having claims for themselves. This is an 'exception' to the standard rule. The next sentence of IDEA reads it can be filed in ANY district Court of the United states. This seems to be also another exception to the standard rule.

Question #2

2. Can plaintiffs/parents per IDEA law file in ANY district Court of the United States, as to not be heard in a court of the same state in which the complaint is against?

Individual Immunity Preface:

Parents presented a Section 1983 statute claim in this case. This includes but is not limited to, teachers, principals, superintendents, board members, the IEE provider and hearing officers who have documented credibility and impartiality concerns and was found in two State review officers orders. Further, these same government employees/officials under section 1983 are using taxpayer funds from those government agencies for their individual representation, a conflict of interest and theft.

Circuit Courts have held split or yielded no decisions with regard to immunity for state employees and officials. The following question holds national significance answering whether or not individual teachers , administrators and/or officers etc. who are wilfully breaking the law and/or obstructing justice should be held individually accountable.

Question #3

3. Do any personnel, employees, officers or administrators etc. of the Local Education Agency or State Education Agency have immunity in any or in part of a complaint filed through Section 1983 for IDEA/ ADA/ 504 and/or constitutional violations etc? As a follow up, can those individual defendants utilize taxpayer dollars from the citizens of the LEA or SEA for personal representation and/or retain the same representation? Is the same council a conflict of interest?

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II. Related Proceedings & Appendices

United States District Court of North Carolina Western Division

Benson I Case number : 3:22-cv-00071-rjc-dsc Transferred to District Court of SC

Benson II Dismissed 3:22-cv-00154- rjc-dsc

United States District Court of South Carolina

Benson I Case Number Transferred from NC 0:22-00614-sal-svh

Benson II (refiled and combined with above)

Exhibit A1+A2 - State Review Officer 12/8/21 and 3/1/22 decision.....p. 11&15

Exhibit B- SCDOE Due Process Hearing Data.....p. 12

Exhibit C- Due process complaints 1 through 4.....p. 16

Exhibit D- Independent Educational Evaluation.....p. 16

Exhibit E- 4/20/23 Order by District Judge Lydon.....p. 8

III. TABLE OF AUTHORITIES

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1. Schaffer v. Weast (2005): Fourth Circuit
2. Doe v. Arlington County School Board (1994): Fourth Circuit
3. E.S. v. Katonah-Lewisboro School District (2012): Fourth Circuit
4. T.B. v. Prince George's County Board of Education (2010): Fourth Circuit
5. Board of Education of Hendrick Hudson Central School District v. Rowley (1982): Supreme Court
6. Cedar Rapids Community School District v. Garret F. (1999): Supreme Court
7. Fry v. Napoleon Community Schools (2017): Supreme Court
8. Hartzell v. Connell (2003): Fourth Circuit
9. Swann v. Charlotte-Mecklenburg Board of Education (1971): Fourth Circuit
10. Long v. Murray County Board of Education (2003): Fourth Circuit
11. Wright v. Roanoke City School Board (2012): Fourth Circuit
12. Board of Education of Oklahoma City v. Dowell (1991): Supreme Court
13. Goss v. Lopez (1975): Supreme Court
14. Doe v. Taylor Independent School District (2001): Fifth Circuit
15. Nelson v. Adams County Board of Education (2007): Eleventh Circuit
16. Doe v. Withers (2006): District Court for the Eastern District of Virginia
17. J.C. v. Beverly Hills Unified School District (2013): The United States District Court for the Central District of California
18. Pachlhofer v. Board of Education of the City of Chicago (2015):The United States District Court for the Northern District of Illinois
19. John Doe v. Indiana Department of Education (2018)

20. Winkelman v. Parma City School District (2007) Supreme Court

21. Perez v. Sturgis Public School (2023) Supreme Court

22. Porter v. Bd of Trustees of Manhattan Beach USD (2002) 9th Cir.

23. Marbury v. Madison, 5 U.S. 137 (1803)

24. Ex parte Siebold, 100 U.S. 371 (1879)

25. Norton v. Shelby County, 118 U.S. 425 (1886)

26. Miranda v. Arizona, 384 U.S. 436 (1966)

IV. INTEREST OF THE UNITED STATES

IT IS THE INTEREST OF THE UNITED STATES that the Justices grant this Writ of Certiorari because it has a direct interest which serves a vulnerable population of individuals with disabilities., "WE THE PEOPLE" trust our elected officials to provide equal justice. Public interest is Served when it carries out the intent of Congress in adopting the IDEA, Section 504 and ADA, section 1983 et al.

There is no doubt that protecting against violations of federal laws serves to keep the scales of Justice balanced and society functioning at an optimal level. When justice is not served there is trauma, individually and collectively. This will manifest itself outwardly in our physical reality such as war. Additionally, the purpose of the Section 504 and ADA, 1983 is served and aimed to prevent further discrimination and civil rights violations against, specifically, an individual with a disability. Individual accountability AND governmental responsibility and enforcement are essential in keeping Liberty, Freedom and Justice for all.

Plaintiffs ask the Justices of the Supreme court to uphold the responsibility of individual government employees or officials. No one is above the law certainly when these actions are wilful and intentional. These actions and behaviors without consequences offer nothing to deter these employees, officers and officials, from continuing and with other students. This is a widespread systemic issue in South Carolina and in the entire country.

V. JURISDICTION Rule 10, 12, 14

Rule 10 (b) a state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort. (c) a state court has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.

On 4/20/23 Docket No. 116 from the District Court of South Carolina, District Judge Sheri Lydon finally filed her first order, nearly 15 months after the initial complaint was filed on 2/22/2022. This was also after 3 separate 'reports and recommendations' filed by the magistrate Judge Shiva Hodges and after summons was issued 8 months later, in October of 2022. This delay is a violation of the 6th amendment. Additionally, Judge Lydons order is in conflict with the decision of other district courts, the 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th and 13th circuit courts, as well as Supreme Court rulings on the same matters.

The District Court of South Carolina errors in every order filed thus far since it was transferred in February 28th of 2022, but most recently and obviously in the 4/20/23 Order,

which intentionally obstructs justice with the intent to retaliate against the child with special needs and his family.

The District Court of South Carolina has erred, veered and departed so drastically away from the accepted and usual course of judicial proceedings, that Plaintiffs call for an exercise of this Court's supervisory power. The District Court of S.C errors by not granting the Plaintiffs the appointment of council, emergency relief (despite 2 administrative orders in favor of the plaintiffs), PACER account access, and change of venue. The court also erred by not allowing for the opportunity for discovery Under Federal Rule of Civil Procedure 11, prior to making claims of insufficient evidence.

The court has also held the pro se litigants to stringent standards as that of licensed attorneys. It has been 18+ months and the case is still without a joinder. This case has 2 separate administrative hearing transcripts which total 7 days, and almost 100 exhibits and 2 rulings in favor of the parent and student with a disability. Plaintiffs have sacrificed homes, cars, relationships and businesses to continue fighting for their son Pro Se'.

The District Court of South Carolina has also specifically decided important federal questions in a way that conflicts with the decision of the United States Supreme Court in Wilkerman VS. Parma. and Perez Vs Sturgis. The Court errors by denying the Parent Plaintiffs to proceed Pro se on behalf of their Minor Child and has dismissed all other claims with exception of IDEA, despite policy letters from the OSEP which state the interconnection of IDEA, ADA and Section 504.

VI. STATEMENT OF CASE

Case Background

1. KJC is an 11 year old boy with a diagnosis of Autism or ASD (level 2), officially diagnosed at 6 years old. He is currently on 3 daily medications for ASD. From 18 months until 2 and ½ years, he qualified for 'Early Intervention', in New Jersey. At 4, he was diagnosed with General and Social Anxiety, ADD, Central Auditory Processing Disorder, and Sensory Processing Disorder. He has had documented 'on and off' , psycho induced gastro-intestial deficit for approximately 5+ years.

2. During KJC 1st , 2nd and 3rd grade year (2017 to 2021), the student had severe toileting deficits daily. This greatly restricted his time in the classroom waiting sometimes 45 minutes to be served by the school nurse, more than once per day. The school denied a paraprofessional each year the parents asked.

3. Once schools closed to COVID in March of 2020, Ms. Benson and Mr. Carberry requested that their son repeat the 3rd grade. The amount of trauma he endured in connection with the lack of education he received during closure and " virtual" learning and the denial of Extended school year or ESY in 2020, caused him to regress in many ways.

4. KJC did not receive any of his IEP nor his related services during this time.

5. Covid "Policies" of masks/shields etc. were unconstitutional and caused mental,

social, and psychological damage to KJ. Published studies were brought up at the FMSD board meeting and with the Child study team, more than once, the first time being September of 2020. The district then retaliated.

6. Emma Sheppard, Amy Maziarz, Jennifer Grant, Brittney Koback, Lavonda Williams and Savannah Stager all gave testimony that is contradictory to the video documentation. They either perjure or impeach themselves. Please see State review officer Decisions, **Exhibit A.**

7. FMSD does not employ nor have a position for a Special Education Director. The Director of "Special Services" is not an educator, she is a psychologist yet oversees Special Education in the entire district. Sadly, this is now common practice. Part of the curriculum of an "educational psychologist" (a new career as of approximately year 2000) is learning to use psychological manipulation tactics such as gaslighting and stonewalling on the parents and even teachers who advocate for the students right to FAPE and services.

8. On May 17, 2021, the Child study team met without NOTICE to the parents or the parents present. They discussed and decided to change the placement for KJC without parental participation, input or any meaningful consideration. This was done out of retaliation because of a 2nd School Board meeting that Ms Benson exercised her first amendment rights at in early May of 2021.

9. The final IEP meeting of the year was on June 8 2021. This placement was in a **segregated** wing of significantly disabled students with a variety of classifications, grossly out of line with the continuum of services as the student with higher functioning autism, and

sensory sensitivities to sound, who was in a General Education Classroom. In October, after keeping him home for approximately 3 months, parents sent him to the new school for only 3 days only, as mom tried to focus on filing a state appeal for the DPC.

10. The student is recorded stating that the yelling and screaming in the class by other emotionally disturbed students was uncomfortable and he could not learn or focus..

11. Brown v. Bd of Education, 347 U. S. 483 (1954). In this landmark decision, the Supreme Court found that segregated public schools are inherently unequal; the decision is relevant to children in segregated special education placements.

12. Parents Filed Due process complaint under IDEA on August 18th 2021.

13. Parents kept their child home as they were certain the placement would cause emotional, psychological and mental damage to their child. KJC stated he did not want to go back. The school district then threatened to call DSS on the parents.

14. The LHO was Doug DENT who has decided almost 90% of all DPC in the state of south carolina in the past 30 years. Exhibit B. There were impartiality concerns and ex parte communication concerns with the district attorney David Duff. A complaint was filed against him with the SC Bar, for a line of questioning where he referred to the student as " the boy from the 6th sense".

15. The 1st hearing was October of 2021. The LHO ruled in favor of the district and did not reflect the transcript.

16. Mr. Duff and FMSD discriminated against the Carberry Benson family also because of their religion. Under oath they expressed and spoke about the mothers belief in reincarnation and that not being "normal or appropriate." A constitutional violation of freedom of religion.

17. The LHO did not let plaintiffs enter certain educational files as exhibits. The LHO did not let the plaintiffs enter into video evidence of IEP meetings, obstructing justice for the child with a disability, a violation of ADA.

18. The parent plaintiffs were determined to get out the truth and so they played 15 min of the IEP meeting as their closing statement, which proved either impeachment or perjury for most of the defendants who were witnesses during the DPH.

19. Parents filed an Appeal with State review officer Avni Gupta Kagan. She provides her decision of complete reversal. She also pointed out credibility concerns.

20. The Plaintiffs were concerned with the motive, and the psychological and mental state of Ms. Maziarz. She demonstrated passive aggressive tendencies and actions so alarming, that the Plaintiffs filed a restraining order when she refused to remove herself from the child study team. Ms Maziarz had never met, observed or seen KJC. She was not a "Relevant" IEP team members, per IDEA sec. 300.321. (Recently this term was taken off of the IDEA .gov website and changed to " IEP Team") why?

21. The local court never sent notice to the parents about the court appearance. Mr.

Carberry received a phone call from a fellow officer the morning of. After plaintiffs rushed over late and unprepared, the case was dismissed.

22. Mr. Duff, the district attorney, filed for sanctions even though he was not retained as the defendant's attorney. It is unclear whether or not the district paid him during this time to " represent" Amy Maziarz. She had retained another law firm which had sent the parents a cease and desist letter.

23. The SRO ordered the district to a Neuropsych eval with a IEE. Prior, during the mediation meeting before the October hearing, the parents had already requested one. We were denied and the district filed a due process complaint against the parents to refuse the IEE under IDEA law.

24. Direct contact was made by faculty, Jennifer Grant to the Independent neuropsych Dr. Jeffery Ewert. This defeated the purpose of it being INDEPENDENT. DR. Ewart admitted he had been in contact with the district to gather other information to come up with his report. When asked to document these correspondence, he refused, and canceled the parents' post conference.

25. 2/23/22 Parents file MOTION to Enforce #1 Collusion and Conspiracy, professional concerns with IEE provider Jeffery Ewert and FMSD, Jennifer Grant.

26. 3/1/22 ORDER on Motion to Enforce found the Fort Mill School District in Violation of providing an IEE within the guidelines given. " Deeply Flawed" IEE - SRO Avni Gupta-Kagan. Offers 2 other providers to contact and the IEE to be performed within 30 days.

Orders IEP meeting to be performed BY APRIL 15, 2022

27. 3/2/22 MOTION by Fort Mill School District to remove Avni Gupta Kagan from the case and objected to her authority to Enforce her own orders. He demands that she redact her orders and step down.

28. 3/3/22 SCDOE takes over enforcement with lead counsel of SCDOE Barbara Drayton, without allowing the parents the opportunity to respond to the district's motion.

29. 3/7/22 Motion to Enforce. Dr. Grier is Conflict of Interest. At the time there was an open lawsuit for malpractice with another local SPED parent. That case has since been settled out of court. 3/22 Motion to Enforce #3 'Time is of the essence'. 3/23 Motion to Enforce #4

30. 3/23/22 B.Drayton states that she had contacted Dr. Grier to discuss the possibility of developing a contract with her Legal team to perform the IEE without the parents permission. This is a procedural violation by SCDOE. Dr. Grier declines after parents object. SCDOE gives no other viable options for alternative providers.

31. 4/7 Drayton provides a response with no time line or options of providers for IEE for the second time. After stating that she would illegally and without authority, move the IEP date to May 20th 2022, from April 15, 2022

32. 4/8 Final Response and 2nd Civil Action, BENSON II, filed in District Court of Western North Carolina, Charlotte. It was dismissed and refiled in the District Court of South Carolina.

33. The Student was never able to return to the classroom for the 2021-2022 school year due to the direct negligence and violations by the SCDOE and FMSD.

34. Because neither the SCDOE or FMSD were able to provide an alternate IEE provider, parents facilitated finding their own provider, Dr. Laurie Gillespie, **Exhibit D.**

35. In Order to exhaust all administrative procedures through the IDEA Due process, Plaintiff additionally Filed 3 additional Complaints for due process in relation to the Original complaint and hearing from October of 2021. Please see **Exhibit C** , all 4 DPC complaints.

36. Of those complaints, LHO Monica Bohlen consolidated 2. This hearing took place on May 2nd for 3 days. It is uncertain, despite asking the LHO on the record, whether this was her first case in this state or this decade or century. She refused to answer. The LHO Bohlen dismissed many aspects of the complaint despite petitioners stating case law and policy letters from OSEP that stated it was unlawful. These included violations during Covid and impartiality of D. Dent.

37. Brian Murphy unlawfully dismisses DPC #4

38. Plaintiff has reason to believe that new attorney Meredith Seibert wrote the Order for LHO Bohlen herself and it did not reflect the transcript. A simple IP/ VPN address with a can confirm where the document was created.

39. Plaintiff filed for 2 Appeals to the same SRO, Mitchell Yell who is a part of the State

South Carolina Educational system. Plaintiffs claim he is not medically fit (as medical records will confirm) and did not write the orders. Both of his Orders did not consider any of the evidence, exhibits, petitioner briefs or actual IDEA law, nor did it reflect the Transcript itself.

40. FMSD finally held an IEP meeting on May 17 2022 (over 1 month late per the SRO order) and falsified the PWN documents. An amendment hearing was filed by the parents.

41. Parents were forced to leave the district, as Mr. Carberry has to sell his home because he was unable to work the entire 2021-2022 school year because of the homebound "stay put" order. This, after significant hardship the school year prior because of closures and partial schedules from Covid.

42. Plaintiffs have exhausted all administrative options and took to the United States District Court to find justice without favor or fear. Unfortunately, the District court of SC has been another extension of the greed and corruption within the educational and judicial systems of SC and the " good old boys club" of lawyers and judges. They have continued to deny an equal opportunity for relief and justice for the special needs child, an additional violation of ADA, by the District Court of South Carolina. Plaintiffs have requested the Bond insurance of all the public officers and have yet to be provided with them.

OTHER Important FACTS

1. Fort Mill School District receives special education grants.

2. FMSD received COVID grants to comply with CDC guidelines that caused

psychological, emotional and mental distress and damage to the child and parents and constituted constitutional violations.

3. CDC does not make laws. They are a FOR PROFIT organization with no elected officials. Those guidelines or any such enforcement of masks or vaccines thereof are in violation of the Constitution. (Nuremberg Code)

4. States Supreme Courts in Illinois and well as New York and others have already ruled the enforcement of these "mandates and/or policies" is unconstitutional.

5. FMSD continued to institute quarantine policies and contact tracing for the 2020-2021 and 2021-2022 school year, restricting movement and access to education. Public Schools also required and demanded medical information, testing and results. This, in addition to not allowing parents and citizens into the building their tax dollars pay for, additional constitutional and civil rights violations.

6. Amy Maziarz, the Director of Special Services DOES NOT HAVE ANY experience teaching as a certified regular ed teacher. Ms. Maziarz does not have any experience teaching special education as a certified teacher. She is a psychologist.

7. Kevin Carberry Sr. took 12 weeks of family leave and ultimately had to walk away from his job in order to care for their son. Mr. Carberry was employed with the City of Tega Cay as a Corporal in the Police Department protecting his community.

8. As a consequence, Mr Carberry had to sell his home in July of 2022 as he could no longer afford to pay the mortgage. The children had to be disenrolled in the district and re enrolled into another one.

9. Alexis Carberry Benson has not been able to pay her mortgage the past 3 months.

10. Alexis Carberry Benson, a former certified teacher and educator in NJ, Closed her very successful Design and Remodeling Company, Carberry Custom Color/ Carolina Custom Color, after 6 years. She is seeking justice full time for her son pro se'. This has continued with BENSON III in another school district where the IEE provided by Dr. Gillespie was not given consideration for the students IEP.

11. Due to school closures, alternative schedules and the denial of parental participation and thus the Denial of FAPE to KJC, Ms. Benson and Mr. Carberry and the student have been in significant financial, psychological and emotional strain. We were denied any sort of emergency relief or compensatory educational funds.

12. KJ's denial of FAPE and the lengthy process of seeking truth and justice was a major source of conflict in her new marriage to Mr. Benson, and caused mental, psychological and emotional damage. It was a major contributing factor to their separation/ divorce

Procedural Background

Date	Due Process IDEA	Federal Court
March 2020	Schools Close due to "Covid"- FAPE not provided.	
Aug	Psychological, mental, emotional harm.	

2020- June 2021	Denial of FAPE Covid regulations, sensory sensitivities and anxiety	
June 8th	SRO Violation for parental participation and placement decisions. FMSD forced the student to another segregated school not in LRE. Faculty credibility concerns.	
Aug 19 2021	Parents filed 1st Due process complaint Pro se' "Stay Put" was Denied	
Oct 3-6th 2021	Due Process Hearing with Douglas Dent. Obstruction of justice and impartiality concerns. Ruled in favor of district (Data over 90% of the time in the last 30 years) *Similar case to DOJ class action from Fairfax County, Virgina*	
Nov. 2021	Parents File Appeal	
12/8/2021	ORDER- SRO Finds Fort Mill School District in Violation of IDEA, FAPE	
12/10	ORDER- 1. to provide parents with 3 Neuro Psych Evaluators with criteria. For parents to choose from 2. Provide 2 hours of tutoring in the interim.	
1/2022	IEE with Dr. Jeffery Ewart	
2/22/22	MOTION to Enforce IEE #1 Conspiracy and Collusion	BENSON 1 Federal Complaint Filed

3/1	ORDER- on Motion to Enforce " Deeply Flawed" IEE - SRO Avni Gupta- Kagan. Provides 2 other providers IEP meeting must be held by April 15, 2021	
3/2	MOTION by District to remove SRO Avni Gupta Kagan and objects to her authority to Enforce her own orders. Petitioners not given opportunity to respond.	
3/3	ORDER By SRO. SCDOE Lead Council Barbara Drayton takes over enforcement.	District Court of South Carolina magistrate Judge Dismisses all motions and recommends the case for dismissal in 1st "Report and Recommendation."
3/7	Motion to Enforce 3_7 Grier Conflict of Interest, open lawsuit for malpractice, recommended by Barbara Drayton with knowledge. *2nd IDEA due process complaint filed	
3/14	District objects to 'added cost' for New IEE *3rd IDEA due process complaint filed	
3/22	Motion to Enforce #3 "time is of the essence"	
3/23	Motion to Enforce #4	
4/6	Motion to Enforce #5 Continued Denial of FAPE	

4/8		Civil Action #2/ Benson II. Benson I and Benson II now combined
4/27	4th DPC Filed Amended 5/17	
5/2- 5/5	2nd DPH for complaints #2 and #3 Recusal of Hearing officer - Collusion / impartiality Monica Bohlen Unlawful dismissals of parts of complaint.	
5/15 approx	Appeal filed for May hearing with SRO Mitchell Yell	
5/17	DPC # 4 unlawfully dismissed by Brian P Murphy/ Appealed to Mitchell Yell 2nd time.	
5/19	1st IEP meeting held by FMSD on May 17 2022, in direct violation of ORDER placed by Avni Gupta Kagan to hold it prior to April 15th.	
6/8/22	Mr Kevin Carberry puts his home for sale as he can not afford to make payments. He stayed home the entire year while KJC was on homebound, " stay put".	Desperate, parents applied for social security. After a long and lengthy process, we were denied with the other 80% of applications. We provided the IEE by Dr. Gillespie.
8/2022	Student switches to new district with continued denial of FAPE	
8/2022	New district refuses to give meaningful consideration to the IEE ordered by the SRO after 4 IEP meeting	Report and Rec #2 Plaintiffs Object

10/2022		Report and Rec and ORDER #3, Summons finally sent out. Plaintiffs Object
11/2022	1st IDEA DPC against new district filed.	Appeal to 4th Circuit for Report and Rec and Order by magistrate judge.
12/2022		Roseboro ORDER (despite 2 transcripts and 100's of exhibits in the entire record from 2 proceeding, obligated to review) Parents File 2nd appeal in 4th circuit.
2/2023	2nd and 3rd DPC Filed against new district. Unlawful dismissal by Brian Murphy and Mitchell yell.	BENSON III Filed
3/2023		Dismissed in 4th Circuit . Not final order bumped back down to SC.
4/2023	District Judge Lydon first Order after 15 months and 3 reports and recommendations.	
5/2023		Magistrate Judge Hodges 1st Report and Recommendation is to deny the parent plaintiff request to proceed in forma pauperis, despite already granting it for Benson I and II. Plaintiffs file Objection
6/2023	Writ to the Supreme Court	

IX. Discussion

The United States Court of Appeals have rendered rulings of the intersection of the Individuals with Disabilities Education Act (IDEA), the Americans with Disabilities Act (ADA), and Section 504 of the Rehabilitation Act:

1. Schaffer v. Weast (2005): The Fourth Circuit held the intersection of IDEA, ADA and Section 504.

2. Doe v. Arlington County School Board (1994): In this case, the Fourth Circuit addressed the issue of whether a school district violated the IDEA, ADA, and Section 504. The court held that the school's actions violated the student's rights under all three statutes.

3. E.S. v. Katonah-Lewisboro School District (2012): This case involves the question of whether a student's IEP provided a free appropriate public education (FAPE) under the IDEA. The Fourth Circuit held that the IEP failed to provide a FAPE, and the school district was required to reimburse the parents for the cost of private school tuition.

4. T.B. v. Prince George's County Board of Education (2010): This case addresses the issue of retaliation against a student and her mother for asserting their rights under the IDEA, ADA, and Section 504. The Fourth Circuit held that the school district's actions constituted unlawful retaliation in violation of these statutes.

5. Board of Education of Hendrick Hudson Central School District v. Rowley (1982): In this case, the Supreme Court held that under the IDEA, schools must provide disabled students with an education that is "reasonably calculated to enable the child to receive educational benefits." The Court also recognized the relationship between the IDEA and Section 504, stating that Section 504 provides broader protection against discrimination for disabled individuals.

6. Cedar Rapids Community School District v. Garret F. (1999): In this case, the Supreme Court addressed the interaction between the IDEA and Section 504. The Court held that a school district was required to provide a ventilator-dependent student with nursing services under Section 504, even though it was not necessary for the student to receive educational benefits.

7. Fry v. Napoleon Community Schools (2017): In this case, the Supreme Court considered the relationship between the IDEA and the ADA. The Court clarified that when a lawsuit is based on the denial of a free appropriate public education (FAPE), it must be exhausted through the administrative procedures of the IDEA. However, if the lawsuit is based on disability discrimination claims unrelated to the denial of a FAPE, it may proceed directly under the ADA and Section 504.

The United States Court of Appeals for the Fourth Circuit that rendered rulings involved the use of Section 1983:

8. Hartzell v. Connell (2003): In this case, the Fourth Circuit considered a Section 1983 claim brought by a high school student who alleged violations of her First Amendment rights. The court held that the student's rights were violated when she was disciplined for distributing religious literature on school grounds.

9. Swann v. Charlotte-Mecklenburg Board of Education (1971): This landmark case involved a Section 1983 claim related to the desegregation of public schools. The Fourth Circuit upheld the district court's order mandating a busing plan to achieve racial desegregation.

10. Long v. Murray County Board of Education (2003): In this case, the Fourth Circuit addressed a Section 1983 claim brought by parents who alleged that their child with a disability was denied a FAPE under the IDEA. The court held that a private right of action existed under Section 1983 to enforce the IDEA's provisions.

11. Wright v. Roanoke City School Board (2012): This case involved a Section 1983 claim brought by a student with a disability who alleged that the school district failed to provide a FAPE under the IDEA. The Fourth Circuit held that the student had a private right of action under Section 1983 to seek damages for the denial of a FAPE.

12. Board of Education of Oklahoma City v. Dowell (1991): In this case, the Supreme Court considered a Section 1983 claim involving the desegregation of public schools. The Court held that once a school district had complied in good faith with a court-ordered desegregation plan, it could seek to be released from the court's jurisdiction.

13. Goss v. Lopez (1975): In this landmark case, the Supreme Court addressed a Section 1983 claim related to due process rights in the context of student suspensions. The Court held that students facing short-term suspensions must be given notice and an opportunity to be heard.

14. Doe v. Taylor Independent School District (2001): This case involved a Section 1983 claim brought by a student with a disability who alleged that the school district violated the IDEA and Section 504. The Fifth Circuit held that the student's right to a free appropriate public education (FAPE) under the IDEA could be enforced through Section 1983.

15. Nelson v. Adams County Board of Education (2007): In this case, the Eleventh Circuit addressed a Section 1983 claim brought by parents alleging that the school district violated their child's right to a FAPE under the IDEA. The court held that a private right of action existed under Section 1983 to enforce the IDEA's provisions.

These are Cases involving Section 504 of the Rehabilitation Act or the Americans with Disabilities Act (ADA) with pro se litigants representing their child:

16. Doe v. Withers (2006): In this case, a pro se litigant filed a lawsuit on behalf of her child under Section 504 and the ADA. The United States District Court for the Eastern District of Virginia allowed the case to proceed and ultimately found that the school district failed to provide appropriate accommodations and services to the child as required by Section 504 and the ADA.

17. J.C. v. Beverly Hills Unified School District (2013): This case involved a pro se litigant who brought a lawsuit on behalf of his child under Section 504 and the ADA, alleging that the school district denied the child a free appropriate public education. The United States District Court for the Central District of California allowed the pro se litigant to proceed and ultimately ruled in favor of the parent, finding that the school district failed to provide the necessary accommodations to the child.

18. Pachlhofer v. Board of Education of the City of Chicago (2015): In this case, a pro se litigant brought a lawsuit on behalf of her child under Section 504 and the ADA, alleging that the school district failed to provide appropriate accommodations for the child's disability. The United States District Court for the Northern District of Illinois allowed the case to proceed, and the court ultimately ruled in favor of the parent, finding that the school district violated Section 504 and the ADA.

19. John Doe v. Indiana Department of Education (2018): This case involved a pro se litigant who sued the Indiana Department of Education under Section 504 and the ADA, alleging that the state violated his child's rights by failing to provide a free appropriate public education. The United States District Court for the Southern District of Indiana allowed the pro se litigant to proceed, and the court ultimately ruled in favor of the parent, finding that the state violated Section 504 and the ADA.

Question #1 Right to Council

Setting a precedent to deny parents the right to counsel through IDEA who additionally have already been granted in forma pauperis status, is dangerous for this country. If we can not protect our weakest, then what does that say? Plaintiffs believe that this is a question that has national importance for the access of low income families, or families in emergency hardship, to be able to access equal justice.

There is nothing further to say, then that.

The second concern and argument is that of who does the child belong to? If a child can not represent themselves, is the child not a direct extension of the parents? If the child is not a ward of the state then how can a child file pro se' on his/her own behalf? This is a constitutional violation for the child's rights to be able to file pro se without council through the legal guardians or parents.

Question #2 Jurisdiction

In the Wilkerman Vs Parma Supreme Court decision in 2007, the court came to a decision that the IDEA law states , " ANY party aggrieved" included the parents being able to represent their child, as well as having claims for themselves, despite Federal Procedures stating that non-attorney's can not represent ' someone else' in a complaint. This is an 'exception' to the standard rule. The next sentence of IDEA reads it can be filed in ANY district Court of the United states. This seems to be also another exception to the standard rule.

It seems that congress intended to allow petitioners/plaintiffs to file their complaint in a different court outside of their home state. Most likely because it is a conflict of interest as the petitioners and plaintiffs indefinitely include the States Government in their complaint. In this case the South Carolina Department of Education.

Question #3 Immunity

The Third question presented to the court is:

"Do any personnel, employees, officers or administrators etc. of the Local Education Agency or State Education Agency have immunity in any or in part of a complaint filed

through Section 1983 for IDEA/ ADA/ 504 and/or Civil rights and constitutional violations? As a follow up, can those individual defendants utilize taxpayer dollars from the citizens of the LEA or SEA for personal representation and/or retain the same representation? Is the same council a conflict of interest?"

1. The Second Circuit has held that there are three circumstances in which a government official, sued in his or her individual capacity, is entitled to qualified immunity: "(1) if the conduct attributed to him was not prohibited by federal law; . . . or (2) where the conduct was so prohibited, if the plaintiff's right not to be subjected to such conduct by the defendant was not clearly established at the time it occurred; . . . or (3) if the defendant's action was objectively legally reasonable in light of the legal rules that were clearly established at the time it was taken." Rapkin v. Rocque, 228 F. Supp. 2d 142, 145-146 (D. Conn. 2002) (citing Munafo v. Metro. Transp. Auth., 285 F.3d 201, 210 (2d Cir. 2002)).

2. KJC is a learning disabled and Autistic individual, and has rights under 20 U.S.C. § 1400 et seq. While these federal laws may be unfamiliar to the general public, the Courts have been able to conclude that they establish rights that are "sufficiently clear" to school administrators and educators. Learning disabled students have clearly established rights under statutory schemes and the Constitution and legal precedent identifies those rights, and the burden is not on the parents of these children to inform school administrators of those rights even though the Plaintiffs have gone above and beyond and did just that.

3. In cases where the circumstances make it apparent to the public officer that his or her failure to act would be likely to subject an identifiable person to imminent harm" the doctrine of governmental immunity does not apply. Id., 228 Conn. at 645. A plaintiff must establish: "the immanence of any potential harm, the likelihood that harm will result from a failure to

act with reasonable care, and the identifiability of the particular victim." Id. at 646 (citing Evon v. Andrews, 211 Conn. 501, 507-508, 559 A.2d 1131 (1989)).

4. Eason v. Clark County School District (NV). (9th Cir. 2002) Court reverses District Court; school personnel do not have immunity. (joined with Witte v. Clark County Sch. District)

5. Remedies When School Officials Violate a Child's Constitutional Rights: Safford v. Redding, HH v. Moffett, NN v. Tunkhannock - The Constitution provides remedies when a student's rights are violated. In Safford v. Redding, a violation of a Constitutional right was the primary vehicle to gain access to the courthouse.

6. In the 2005 Supreme Court decision in Schaeffer v. Weast, Judge Goodstein found that the Wisconsin Department of Public Instruction (DPI) violated the IDEA by failing to discharge its oversight and supervisory obligations and failing to ensure that Milwaukee Public Schools was in compliance with the IDEA.

7. Judith Scruggs, Administratrix of Estate of Daniel Scruggs v. Meriden Bd of Ed., E. Ruocco, M. B. Iacobelli, and Donna Mule (U. S. District Court, Connecticut, 2005). Suit for actual and punitive damages against school board, superintendent, vice principal and guidance counselor under IDEA, ADA, 504, 42 USC 1983, 1985 and 1986.

8. Doe v. Withers. Case stood for two significant propositions: that schools and teachers can be held accountable for refusing to follow IEPs and that schools and teachers can be sued for dollar damages in jury trials. This was the first special education jury trial against public

school educators.

9. Goleta Union Elementary Sch. Dist v. Andrew Ordway (C.D. Cal. 2002). Judge ruled that the school administrator was personally liable for damages under the Civil Rights Act for violating a mother's right to get a "free appropriate public education" for her special-needs son, as required by the Individuals with Disabilities Education Act.

10. Hartzell v. Connell (2003): In this case, the Fourth Circuit considered a Section 1983 claim brought by a high school student who alleged violations of her First Amendment rights. The court held that the student's rights were violated when she was disciplined for distributing religious literature on school grounds.

11. Swann v. Charlotte-Mecklenburg Board of Education (1971): This landmark case involved a Section 1983 claim related to the desegregation of public schools. The Fourth Circuit upheld the district court's order mandating a busing plan to achieve racial desegregation.

12. Long v. Murray County Board of Education (2003): In this case, the Fourth Circuit addressed a Section 1983 claim brought by parents who alleged that their child with a disability was denied a FAPE under the IDEA. The court held that a private right of action existed under Section 1983 to enforce the IDEA's provisions.

13. Wright v. Roanoke City School Board (2012): This case involved a Section 1983 claim brought by a student with a disability who alleged that the school district failed to provide a FAPE under the IDEA. The Fourth Circuit held that the student had a private right

of action under Section 1983 to seek damages for the denial of a FAPE.

14. Board of Education of Oklahoma City v. Dowell (1991): In this case, the Supreme Court considered a Section 1983 claim involving the desegregation of public schools. The Court held that once a school district had complied in good faith with a court-ordered desegregation plan, it could seek to be released from the court's jurisdiction.

15. Goss v. Lopez (1975): In this landmark case, the Supreme Court addressed a Section 1983 claim related to due process rights in the context of student suspensions. The Court held that students facing short-term suspensions must be given notice and an opportunity to be heard.

16. Doe v. Taylor Independent School District (2001): This case involved a Section 1983 claim brought by a student with a disability who alleged that the school district violated the IDEA and Section 504. The Fifth Circuit held that the student's right to a free appropriate public education (FAPE) under the IDEA could be enforced through Section 1983.

17. Nelson v. Adams County Board of Education (2007): In this case, the Eleventh Circuit addressed a Section 1983 claim brought by parents alleging that the school district violated their child's right to a FAPE under the IDEA. The court held that a private right of action existed under Section 1983 to enforce the IDEA's provisions.

18. Porter v. Bd of Trustees of Manhattan Beach USD (9th Cir. 2002) Held that Eleventh Amendment immunity does not bar a federal court from granting prospective injunctive relief.

19. Marbury v. Madison, 5 U.S. 137 (1803) "A law repugnant to the Constitution is void. An act of Congress repugnant to the Constitution cannot become a law. The Constitution supersedes all other laws and the individual's rights shall be liberally enforced in favor of him, the clearly intended and expressly designated beneficiary."

20. Ex parte Siebold, 100 U.S. 371 (1879) "An unconstitutional law is void and is no law. An offense created by it is not a crime. A conviction under it is not merely erroneous but is illegal and void and cannot be used as a legal cause of imprisonment."

21. Norton v. Shelby County, 118 U.S. 425 (1886) "An unconstitutional act is not law. It confers no rights; it imposes no duties; affords no protection; it creates no office. It is, in legal contemplation, as inoperative as though it had never been passed."

22. Miranda v. Arizona, 384 U.S. 436 (1966) "Where rights secured by the Constitution are involved, there can be no rule-making or legislation which would abrogate them."

After a review of the case law above, it is clear that the The District Court of South Carolina has veered and departed drastically from the accepted and usual course of judicial proceedings that Plaintiffs call for an exercise of this Court's supervisory power. The District Court of S.C errors additionally in the following ways:

1. Denying appointment of council for pro se and in forma pauperis plaintiffs.
2. Denies emergency relief despite 2 administrative orders in favor of the plaintiffs.

3. Denies PACER account access
4. Denies change of venue.
5. Dismisses Claims against all individual defendants despite Section 1983
6. Dismiss ADA, Section 504, constitutional Et al. claims

The court has also held the pro se parent litigants to stringent standards as that of licensed attorneys. Plaintiffs claim wilful negligence and obstruction of justice by the District Court of South Carolina. It has been 18+ months and the case is still without a joinder. Plaintiffs have sacrificed homes, cars, relationships and businesses to continue fighting for their son Pro Se'.

The District Court of South Carolina has decided important federal questions in a way that conflicts with the decision of the United States Supreme Court in Wilkerman VS. Parma. and Perez Vs Sturgis. The Court errors by denying the Plaintiffs to proceed Pro se on behalf of their Minor Child and has dismissed all other claims with exception of IDEA, despite policy letters from the OSEP which state the interconnection of IDEA, ADA and Section 504.

The Court also errors by ignoring the VAST amount of evidence on the record that justify all other claims including but not limited to, negligence, collusion and conspiracy, and numerous constitutional violations. Finally, the Court errors by dismissing all individual defendants and does not allow plaintiffs to pursue claims through Section 1983.

It is because of these that the Plaintiffs, the parents of KJC, a 12 year old child with Autism (7 at the time of the violations began), ask the Supreme Court to review this case as it holds tremendous national weight and significance for all persons school aged children with disabilities. If the Court decides to remand the case to a lower court, Plaintiffs request

the following:

1. Remanded to District Court of Western North Carolina, Charlotte, NC.
2. Remand all aspects of the complaint that has been dismissed or order a evidentiary hearing.
3. Remand the dismissal of individual defendants through section 1983
4. Allow parents to represent their child in this Case. Wilkerman vs parma.
5. Appoint counsel for pro se and in forma pauperis plaintiffs.
6. Allow Pacer Access to mitigate the cost of paper copies and ink costs as plaintiffs are in forma pauperis.
7. Emergency relief in the amount of 500k. At a minimum, equal to the amount spent by the SCDOE and FMSD in Attorneys fees as Plaintiffs were successful in Due process and are owed equal fees. Both parents were unable to work for almost 2 years due to the violations and have continued complaints for violations by the SCDOE and another school district.
8. An Order for 3rd party and or out of state investigation and or audit to take place in for the following: FMSD Special Education Department Procedures and Practices and finances. South Carolina Department of Education Procedures and Practices and finances.

VIII. Request and Prayer

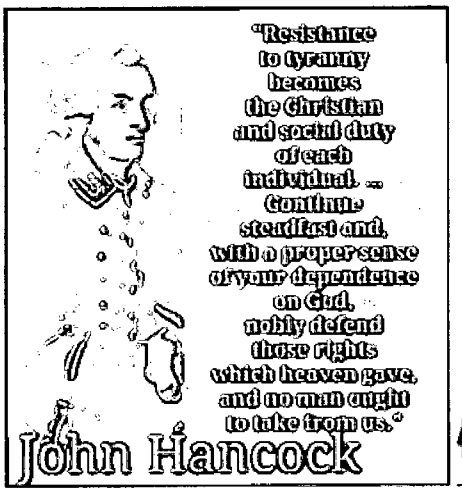
It has been made clear to Plaintiffs over the course of 2+ years, increasingly since having already been successful pro se (despite ever having an impartial due process hearing) ,

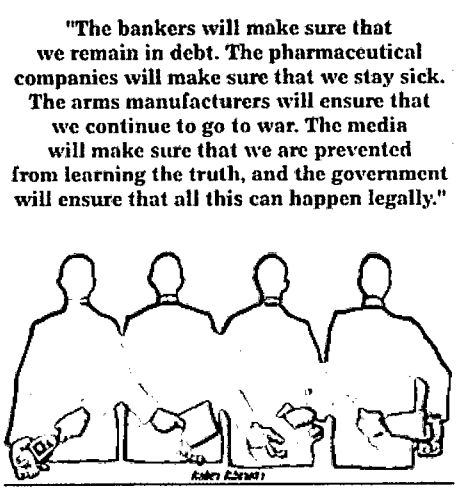
that the SEA, SCDOE, and the District Court of South Carolina has not and does not intend to offer equal justice, and have denied them there constitutional right to proper due process.

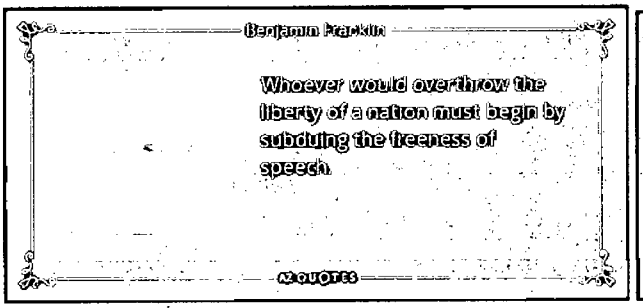
If we all do the next right thing, and the next thing right, the world would have peace and harmony. This includes taking responsibility for our actions and justice to be served at every level of government including the classroom. When corruption, greed and love of power and money come before the love of people, We have chaos. Look around! Will humanity survive?

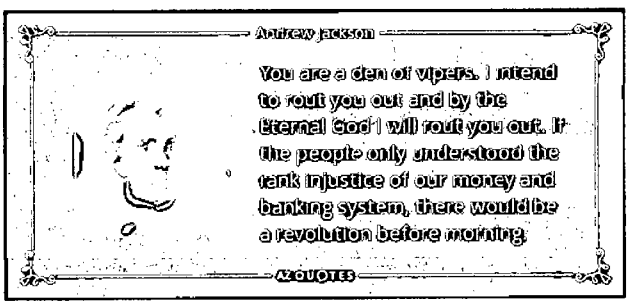
2 Chronicles 7:14 NKJV "If my people who are called according by My name will humble themselves, and pray and seek My face, and turn from their wicked ways, then I will hear from Heaven and I will forgive their sin (to miss the mark) and heal their land."

www.The144Center.com







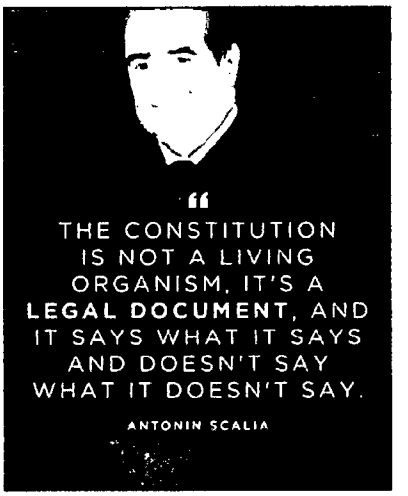


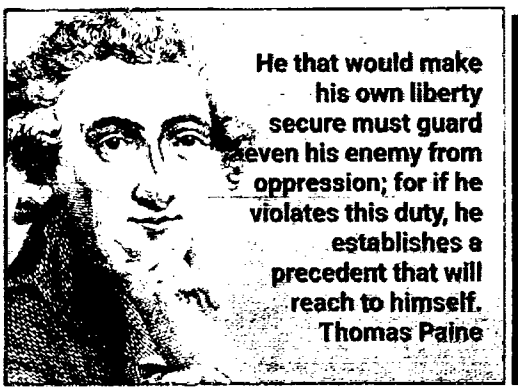
Sometimes non-action is violence. If you allow others to kill and destroy, although you are not doing anything, you are also implicit in that violence. So, violence can be action or non-action.

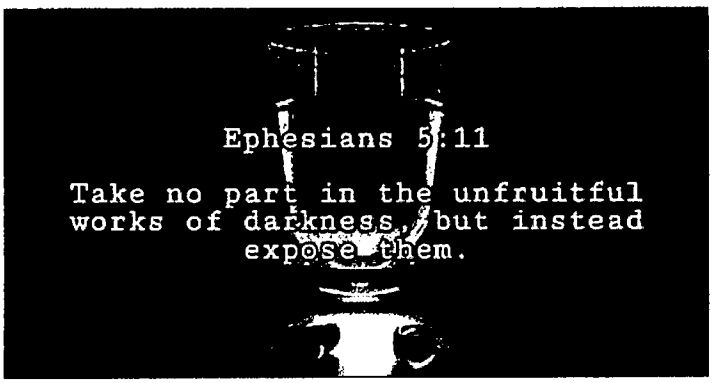
- Thich Nhat Hanh
Thich Nhat Hanh gems

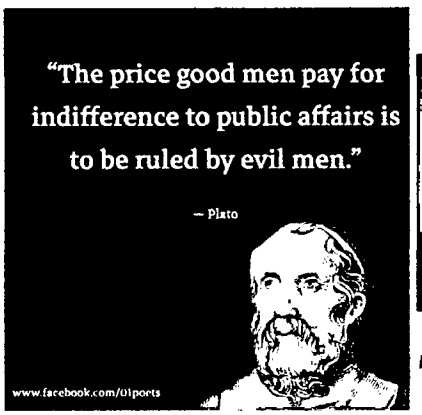
HOW CLOSE HUMANITY IS

to understanding that their governments are organized criminals



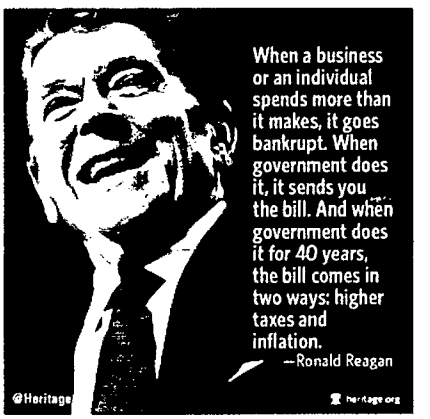


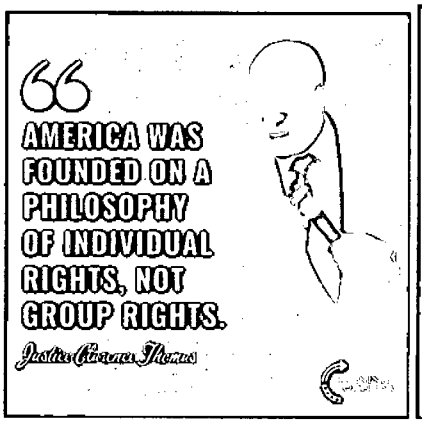


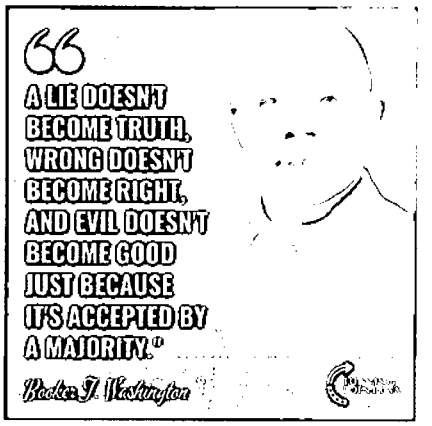


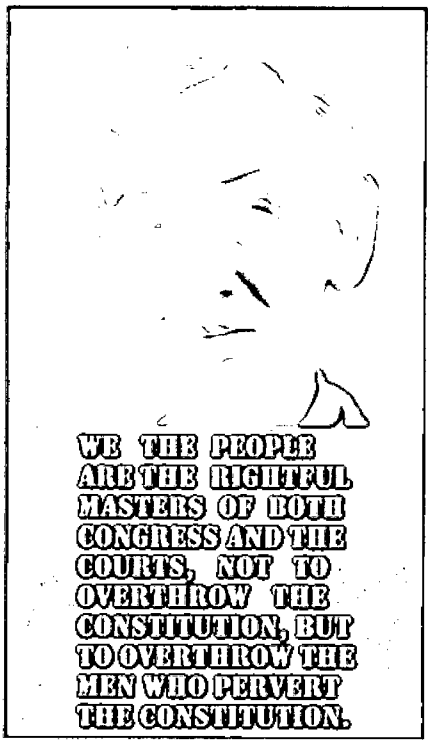
IMAGINE, IF YOU WILL,
THE PLANET AWAKENING & EXPERIENCING
A SHIFT OF CONSCIOUSNESS SO GREAT

THAT GOVERNMENTS AROUND THE WORLD CONDUCT PSYCHOLOGICAL WARFARE ON THEIR OWN CITIZENS IN AN ATTEMPT TO CONTROL THEM BY LOWERING THEIR VIBRATIONS & KEEPING THEM IN A CONSTANT STATE OF FEAR.

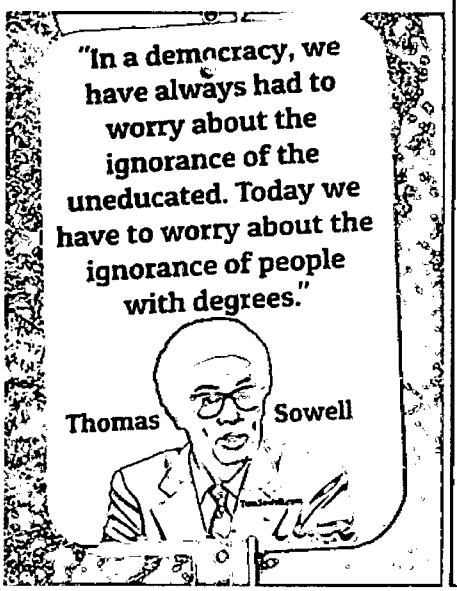


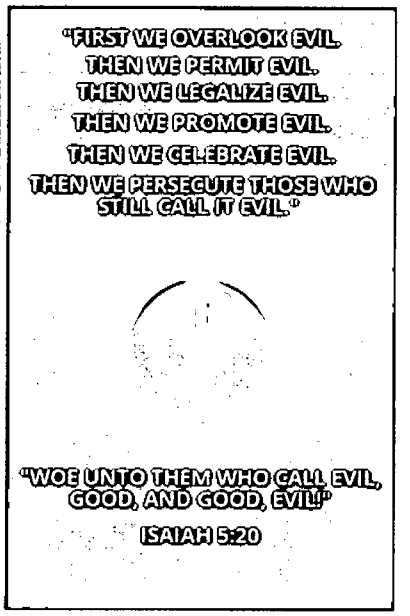






Abraham Lincoln. 1859. speech in Kansas and Ohio.





Save America,
Save Education,
Save Truth. Freedom. and Justice,

Alexis Carberry Benson
acb32483@protonmail.com

X_____

Kevin Carberry
carberrykevin@gmail.com

X_____