

23-5335

No. \_\_\_\_\_

FILED

JUN 05 2023

OFFICE OF THE CLERK  
SUPREME COURT U.S.

IN THE  
SUPREME COURT OF THE UNITED STATES

YOUNG BOK SONG - PETITIONER,

VS.

TONY PARKER, ET AL., - RESPONDENTS.

ON PETITION FOR A WRIT OF CERTIORARI TO

THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT  
(NAME OF COURT THAT LAST RULED ON MERITS OF THIS CASE)

**PETITION FOR WRIT OF CERTIORARI**

YOUNG BOK SONG, # 379747

WTSP, SITE-2  
P.O. BOX 1150  
HENNING, TN 380041-1150

(Phone number is not available)

**QUESTION(S) PRESENTED**

- (1) WHETHER THE TN U.S. DISTRICT COURT AND U.S. COURT OF APPEALS ARE INCORRECT IN READING SCHOLL V. MNUCHIN, # 20-CV-05309 (N.D. CAL. SEP. 24, 2020), 489 F. SUPP.3D 1008 (SCHOLL-1); SCHOLL-2 (ON 10/02/2020, SLIP COPY); SCHOLL-3 (ON 10/7/2020, SLIP COPY), SCHOLL-4 (ON 10/14/2020, 494 F.SUPP.3D 661), AND SCHOLL-5: (ON 11/11/2021, SLIP COPY) IN ITS CONTEXT AS MENTIONED CLAIM "A" AND "F"?
- (2) WHETHER THE PLAINTIFF SONG STATED COLORABLE AND COGNIZABLE CLAIM UNDER SECTION 1983 BY ALLEGING THE TDOC/CORE CIVIC OFFICIALS' TAX-FRAUD SOLICITATION CLAIM AS MENTIONED CLAIM "A" AND "F"?
- (3) WHETHER THE PLAINTIFF SONG'S REMAINING CLAIMS ARE COLORABLE AND COGNIZABLE UNDER THE SECTION 1983 AS MENTIONED CLAIM "B" THROUGH "G"?
- (4) WHETHER THE PLAINTIFF SONG'S CONSTITUTIONAL RIGHTS WERE VIOLATED BY THE DEFENDANTS' ACTION AND INACTION, BY THE UNITED STATES DISTRICT COURT'S ERROR IN DENYING HIS CLAIM BASED ON THE U.S. DISTRICT COURT'S MISLEADING OF SCHOLL CASES, AND BY THE UNITED STATES COURT OF APPEALS' ERROR IN DENYING APPEAL AS MENTIONED CLAIM "A" THROUGH "G"?

## LIST OF PARTIES

[v] All parties ARE LISTED AS FOLLOWS:

**Plaintiff:**

Young Bok Song: # 379747, WTSP, P.O. Box 1150, Henning, TN 38041-1150.

**Defendants #1 - #12:**

#1: Tony Parker: Tennessee Department of Correction (TDOC) Commissioner and American Correctional Association (ACA) President, TDOC, 6th Floor Rachel Jackson Bldg, 320 6th Avenue N., Nashville, TN 37243.

#2: Lee Dotson: TDOC Assistant Commissioner of Prisons, TDOC, 6th Floor Rachel Jackson Bldg, 320 6th Avenue N., Nashville, TN 37243.

#3: Damon Hininger: CoreCivic CEO or President, CoreCivic, 10 Burton Hills Blvd., Nashville, TN 37215.

#4: Raymond Byrd: Trousdale Turner Correctional Complex (TTCC) Warden, CoreCivic Employee, TTCC, 140 Macon Way, Hartsville, TN 37074.

#5: Donelle Harris: TTCC Asst. Chief of Unit Management, CoreCivic Employee, TTCC, 140 Macon Way, Hartsville, TN 37074.

#6: Monica Thames: Then-TTCC Unit-D Manager, CoreCivic Employee, TTCC, 140 Macon Way, Hartsville, TN 37074.

#7: Kenneth Bailey: TTCC Library Supervisor, CoreCivic Employee, TTCC, 140 Macon Way, Hartsville, TN 37074.

#8: Willetta Grady: TTCC Library Staff, CoreCivic Employee, TTCC, 140 Macon Way, Hartsville, TN 37074.

#9: (f/n/u) McMIndes: TTCC School Instructor, CoreCivic Employee, TTCC, 140 Macon Way, Hartsville, TN 37074.

#10: David Matthew: TTCC School Supervisor, CoreCivic Employee, TTCC, 140 Macon Way, Hartsville, TN 37074.

#11: (f/n/u) O'Daniel: TTCC Unit-DC Case Manager, CoreCivic Employee, TTCC, 140 Macon Way, Hartsville, TN 37074.

#12: (f/n/u) Bermudez: Then-Current-TTCC Unit-D Manager, CoreCivic Employee, TTCC, 140 Macon Way, Hartsville, TN 37074.

#13: (f/n/u) Jane Doe: TTCC Mailroom Supervisor, CoreCivic Employee, TTCC, 140 Macon Way, Hartsville, TN 37074.

#14: (f/n/u) Sgt. Lopez: TTCC Disciplinary Hearing Officer (DHO), CoreCivic Employee, TTCC, 140 Macon Way, Hartsville, TN 37074.

## RELATED CASES

Scholl-1: Scholl v. Mnuchin, 489 F. Supp.3d 1008, (N.D. Cal. on 09/24/2020).

Scholl-2: (on 10/02/2020, Slip Copy).

Scholl-3: (on 10/07/2020, Slip Copy).

Scholl-4: 494 F.Supp.3d 661, (on 10/14/2020).

Scholl-5: (on 11/11/2021, Slip Copy).

Song-1: (Young Bok Song v. Tony Parker, et al., 3:21-cv-00154, (M.D. TN. 02/18/2022) on 02/18/2022.

Song-2: (Young Bok Song v. Tony Parker, et al., # 22-5199, (6th Cir. 03/08/2023).

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Young Bok Song v. Tony Parker, et al., (Song-2), # 22-5199, (6th Cir. 03/08/2023)

### APPENDIX B: UNITED STATES DISTRICT COURT DECISION.

Young Bok Song v. Tony Parker, et al., (Song-1), # 3:21-cv-00154 (M.D. TN., 02/18/2022)

## TABLE OF AUTHORITIES CITED

Scholl-1: Scholl v. Mnuchin, 489 F. Supp.3d 1008, (N.D. Cal. on 09/24/2020).

Scholl-2: (on 10/02/2020, Slip Copy).

Scholl-3: (on 10/07/2020, Slip Copy).

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Song-2: (Young Bok Song v. Tony Parker, et al., # 22-5199, (6th Cir. 03/08/2023).

**IN THE  
SUPREME COURT OF THE UNITED STATES**  
**PETITION FOR WRIT OF CERTIORARI**

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

**OPINION BELOW**

[v] For the Federal Courts:

The opinion of the United States Court of Appeals appears at Appendix A to the Petition and is unpublished.

The opinion of the United States District Court appears at Appendix B to the Petition and is unpublished.

[ ] For the State Courts: N/A.

**JURISDICTION**

[v] For cases from Federal Courts:

The date on which the United States Court of Appeals decided my case was 03/08/2023

[v] No petition for rehearing was timely filed in my case.

The jurisdiction of this Court is invoked under 28 U.S.C. Section 1254(1)

[ ] For cases from State Courts: N/A.

**CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

First Amendment to the United States Constitution.

Fifth Amendment to the United States Constitution.

Sixth Amendment to the United States Constitution.

Eight Amendment to the United States Constitution.

Fourteenth Amendment to the United States Constitution.

Article II Section 1 and 2 of the Tennessee Constitution.

**STATEMENT OF CASE**

Your Plaintiff/Appellant/Petitioner, Young Bok Song, # 379747, ("Plaintiff" and/or "Song" hereafter), an indigent LEP pro se Tennessee inmate, filed 1983 Complaint with the United States District Court at Nashville, Tennessee, ("U.S. District Court") by alleging the Tennessee Department of Correction (TDOC) and CoreCivic Trousdale Turner Correctional Complex (TTCC) Prison Officials' wrongdoings as follows:

**SONG'S CLAIMS:**

- (A) massive tax fraud solicitation on inmates,**
- (B) denial of constitutional right to access to the court/legal counsel,**
- (C) retaliatory write-up,**
- (D) stimulus check interception,**
- (E) legal mail interception,**
- (F) continuing tax fraud solicitation and interception of stimulus checks/ sudden transfer/ withholding personal property,**
- (G) deeply rooted corruption in TTCC and cover-up by TDOC.**

"U.S. District Court dismissed the Complaint without serving the Defendants. *Young Bok Song v. Tony Parker, et al., 3:21-cv-00154 (M.D. TN. 02/18/2022)*. Appendix B.

Song, timely appealed to the United States Court of Appeals, Sixth Circuit, ("U.S. Court of Appeals"), which was denied on 03/08/2023. See *Young Bok Song v. Tony Parker, et al., # 22-5199 (6th Cir. 03/08/2023)*. Appendix A.

Current Petition for Writ Of Certiorari is timely.

On 06/13/2023, the Clerk directed Petitioner to resubmit the petition within 40 pages and in correct form for declaration of indigency within 60 days of the date of the 6-13-2023 letter, which is 08-12-2023. Therefore, current resubmission is timely filed on 07/30/2023.

**REASONS FOR GRANTING THE PETITION**

- (1) WHETHER THE TN U.S. DISTRICT COURT AND U.S. COURT OF APPEALS ARE INCORRECT IN READING *SCHOLL V. MNUCHIN*, # 20-CV-05309 (N.D. CAL. SEP. 24, 2020), 489 F. SUPP.3D 1008 (*SCHOLL-1*); *SCHOLL-2* (ON 10/02/2020, SLIP COPY); *SCHOLL-3* (ON 10/7/2020, SLIP COPY), *SCHOLL-4* (ON 10/14/2020, 494 F.SUPP.3D 661), AND *SCHOLL-5*: (ON 11/11/2021, SLIP COPY) IN ITS CONTEXT AS MENTIONED BELOW CLAIM "A" AND "F"?
- (2) WHETHER THE PLAINTIFF SONG STATED COLORABLE AND COGNIZABLE CLAIM UNDER SECTION 1983 BY ALLEGING THE TDOC/CORECIVIC (TTCC) OFFICIALS' TAX-FRAUD SOLICITATION CLAIM AS MENTIONED BELOW CLAIM "A" AND "F"?
- (3) WHETHER THE PLAINTIFF SONG'S REMAINING CLAIMS ARE COLORABLE AND COGNIZABLE UNDER THE SECTION 1983 AS MENTIONED BELOW CLAIM "B" THROUGH "G"?
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**ARGUMENT**

- (1) WHETHER THE TN U.S. DISTRICT COURT AND U.S. COURT OF APPEALS ARE INCORRECT IN READING *SCHOLL V. MNUCHIN*, # 20-CV-05309 (N.D. CAL. SEP. 24, 2020), 489 F. SUPP.3D 1008 (*SCHOLL-1*); *SCHOLL-2* (ON 10/02/2020, SLIP COPY); *SCHOLL-3* (ON 10/7/2020, SLIP COPY), *SCHOLL-4* (ON 10/14/2020, 494 F.SUPP.3D 661), AND *SCHOLL-5*: (ON 11/11/2021, SLIP COPY) IN ITS CONTEXT AS MENTIONED BELOW CLAIM "A" AND "F"?

AND

- (2) WHETHER THE PLAINTIFF SONG STATED COLORABLE AND COGNIZABLE CLAIM UNDER SECTION 1983 BY ALLEGING THE TDOC/CORECIVIC (TTCC) OFFICIALS' TAX-FRAUD SOLICITATION CLAIM AS MENTIONED BELOW CLAIM "A" AND "F"?

**SCHOLL CASES - THE FACT AND LAW:****(*Scholl-1*): *Scholl v. Mnuchin*, # 20-cv-05309 (N.D. Cal. 09/24/2020);**

The Plaintiffs, Colin Scholl and Lisa Strawn sought for, among others, a class certification in an effort to receive the COVID-19 Economic Impact Payments ("EIP") checks under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), which Act was to help the American Taxpayers who lost their job and wages during the COVID-19 pandemic ("Pandemic"). The Scholl's Plaintiffs are mainly two (2) groups: Colin Scholl Group and Lisa Strawn Group.

Plaintiff Colin Scholl-group: Colin Scholl was a taxpayer till 2019 and incarcerated in/around March

2020 during the pandemic. If he was not incarcerated, he had no problem in receiving the EIP[-I] check, but because of his incarceration in/around March 2020, [due to his incarceration-status], his well-deserved EIP check was recalled. Therefore, Plaintiff *Scholl* filed a lawsuit.

Plaintiff Lisa Strawn-group: Lisa Strawn was released from the prison during Pandemic, and she was facing the difficult situation in the free-world because of the Pandemic. She deserves the pre-tax-return-style EIP[-I], too. Therefore, Plaintiff Strawn joined with Scholl's lawsuit.

In *Scholl*, the United States District Court Northern District of California District Judge honorable Phyllis J. Hamilton granted the *Scholl's* relief sought and certified the class who eligible for the EIP Stimulus checks as; All United States citizens and legal permanent residents who:

- (a) are and were incarcerated (i.e., confined in a jail, prison, or institution or correctional facility pursuant to their conviction of a criminal offense) in the United States, or have been held to have violated of parole or probation imposed under federal or state, at any time from March 27, 2020 to the present (September 2020);
- (b) filed a tax return in 2018 or 2019, or were exempted from a filing obligation because they earned an income below \$12,000 (or \$24,400 if filing jointly) in the respective tax year;
- (c) were not claimed as a defendant on another person's tax return; and
- (d) filed their taxes with a valid Social Security Number, and, if they claimed qualifying children or filed jointly with another person, those individuals also held a valid Social Security Number.

*Id.* at \*43, (now \*1047).

(In *Scholl-2*, the Court corrected that it was \$12,200, not \$12,000, on 10/02/2020 ruling at \*6-7).

**(Scholl-2): Scholl v. Mnuchin, # 20-cv-05309 (N.D. Cal. 10/02/2020);**

The *Scholl's* Court granted and ordered Defendants to individualized Notice to eligible Class Members and extension of time to file.

**(Scholl-3): Scholl v. Mnuchin, # 20-cv-05309 (N.D. Cal. 10/07/2020);**

The *Scholl's* Court ordered Defendants regarding Notice to class members.

**(Scholl-4): Scholl v. Mnuchin, # 20-cv-05309 (N.D. Cal. 10/14/2020);**

The *Scholl's* Court denied Defendants' motion to stay pending appeal was denied, Plaintiff's motion for summary judgment of their first claim was denied, and the Court found and declared that Defendants' policy, in effect to cancel the eligible class' EIP solely due to their incarcerated-status, violated the APA and was [hereby]

vacated, and the Court also vacated the provisional certification of the class and certified a litigation class for all purpose. Finally, the Court entered the permanent injunction as Plaintiffs requested.

**(Scholl-5): Scholl v. Mnuchin, # 20-cv-05309 (N.D. Cal. 01/11/2020);**

The *Scholl*'s Court denied Plaintiff-intervenors' motion to intervene and denied as moot their motion for civil contempt.

**ARGUMENTS ON FACT:**

(1)-a: It is clear that the COVID-19-EIP-Eligible Class-[Member-inmate]-Certification in Scholl was limited to; inmates who are incarcerated in the United States from/since March 27, 2020 to then-present time (September 2020). They were 2019 tax-payers but incarcerated since/from March 2020, during Pandemic, like the primary Plaintiff Colin Scholl. Even though they became inmates, they well deserve the 2020 EIP because they were 2019-taxpayer. They are mentioned as, at the very least, 85,000 inmates contrasting to the, at the very least, 1.4 million all U.S. inmates. - *Scholl*-situation. (*Scholl-1*, at \*6, (now \*1023), \*43, (now \*1047); *Scholl-2*, at \*6).

and,

former inmates who were released from prison during Pandemic, like joint-Plaintiff Lisa Strawn. Even though they are former inmates and they were not 2019 taxpayers, they have to face the Pandemic in the free-world. Therefore, they deserve the pre-tax-return-style EIP[-I], too. - Strawn-situation. (*Scholl-1*, at \*32-33, (now \*1040)).

**The EIP Stimulus checks were never meant to be for the 1.4 million all U.S. inmates.**

The *Scholl*-situation-85,000 inmates, who were 2019-taxpayers but incarcerated in 2020, well deserve their 2020- tax-return because of their status of being 2019-taxpayer. Because of their incarcerated status in 2020, the IRS cannot withhold those 85,000 inmates' 2020 EIP Checks which they already earned in 2019. The *Scholl*'s case is for these 85,000 inmates (and similarly situated inmates) but not 1.4 million All U.S. inmates. Therefore, except this 85,000 inmates, the 2020 EIP Checks were not for the 1.4 all U.S. inmates. Without mentioning this 85,000 inmates, the already-incarcerated-inmates, (which are the 1.4 million All U.S. inmates), had nothing to do with the CARES Act provision because the already-incarcerated-inmates suffer no loss of job or wage because of the COVID-19 Pandemic and they are not the taxpayers by no means. In Tennessee, only, the prison industry spends \$ 1 billion dollars from the taxpayer's money for their fundamental living and rehabilitation, each year. With those \$ 1 billion dollars taxpayers money, the inmates enjoyed everything free for their fundamental living and even for the rehabilitation programs even during the Pandemic. To the contrary, in the free-world, the non-inmate taxpayers, 20

million of them, could not maintain their fundamental living because of the Pandemic. Therefore, the Congress passed the Coronavirus Aid, Relief, and Economic Security Acts ("CARES Act") in 2020. The CARES Act's intention was to provide relief to more than 20 million American-taxpayers and low-incomers (non-filers) who lost their job and wages during the Pandemic for their fundamental living. (*Scholl-1*; at \*2, (now \*1020-1021)).

**First of all;** in *Scholl-1* at \*1-6, (now \*1020-1023), **"BACKGROUND,"** the Plaintiff Scholl and Strawn sought to certify "the class of individuals who were incarcerated across the United States since/from March 27, 2020 to then-present time (September 2020) and meet the eligibility requirement" (*Scholl-1*, at \*6, (now \*1023)), who were, at the very least, 85,000, the Scholl-situation-inmates; and the Strawn-situation-inmates are mentioned at page \*32-33, (now \*1040) as "the class of individuals who were being released from prison during Pandemic who would face the same Pandemic-difficulties in the free-world as non-incarcerated eligible individuals who received the EIP checks but must wait until 2021 to receive a tax credit from the IRS." (*Scholl-1*, \*32-33, (now \*1040)).

**Secondly;** in *Scholl-1* at \*28-33, (now \*1037-1040), **"3. Irreparable Harm,"** it was argued by the Plaintiffs that "the irreparable harm (due to the Pandemic) was on their own (Plaintiffs and with respect to putative Class Members) and the similarly situated inmates," which was "some percentage of incarcerated person," including "the 85,000 inmates," but not the 1.4. million All U.S. inmates. (*Id.* at \*33, (now \*1039)).

**Thirdly;** in *Scholl-1* at \*36, (now \*1042), **"C. Motion for Class Certification,"** it was unequivocally requested by the Plaintiffs that the Scholl-situation inmates were not the 1.4. All U.S. inmates but, at the very least, nearly 85,000 inmates "who were incarcerated from/since March 2020 to then-present time (September 2020) and who meet the requirements of the CARES Act for an advance refund. (*Scholl-1* at \*36, (now \*1042)).

**Fourthly;** in *Scholl-1* at \*38, (now \*1043), **"1. Rule 13(a), a. Numerosity,"** it was clearly argued by the Plaintiffs that the *Scholl* Court's Certification of the Class Member-size/number are, at the very least, nearly 85,000 newly-incarcerated persons, who were the 2019-taxpayers and/or low-incomer non-filers. In its context, the *Scholl's* Court clearly stated;

"Rule 23(a)(1) requires that a proposed class be so numerous that **joinder of all members is impracticable.** **Fed.R.Civ.P.23(a)(1).** While there is no fixed number that satisfies the numerosity requirement, courts often find that a group greater than 40 members meets such requirement. .... Plaintiffs argue that numerosity is satisfied because **joinder of over 1.4 million incarcerated persons as parties would be impractical.** Mtn. at 20. The court agrees with plaintiffs because, **at the very least, the IRS initially issued**

EIP to nearly 85,000 incarcerated persons before issuing guidance to intercept the payments, pay the EIPs, or void the payment checks. Salahi Decl., Ex. 6 at 6. This factor is met." (*Id.* at \*38, (now \*1043)).

The *Scholl*'s Court pointed the F.R.Civ.P.23(a)(1) requirement out and stated that the "joinder of [1.4 million] all members [U.S. inmates] is impracticable." .... "because joinder of over 1.4 million incarcerated persons as parties would be impractical." .... "The court agrees with plaintiffs because, at the very lease, the IRS initially issued EIPs to nearly 85,000 [newly] incarcerated persons before issuing guidance to intercept the payments, pay the EIPs, or void the payment checks. .... This factor is met." Therefore, Plaintiff Song avers that, in its word, context, and governing law, the Certified EIP-eligible inmates are the newly-incarcerated, at the very least, 85,000, but not the 1.4 million All U.S. inmates, which is impractical. (*Id.* at \*38, (now \*1043); at \*6, (now \*1023); and at \*43, (now \*1047)).

Fifthly; in *Scholl-1*, at \*35, (now \*1041), "4. Balance of Equities and Public Interest." the Defendants (Honorable Steven Mnuchin, then-U.S. Treasury Secretary, and the IRS Commissioner) knew that;

the number of EIP-eligible inmates are, at the very least, 85,000 newly-incarcerated inmates but not the 1.4 million All U.S. inmates,

and,

if the Scholl's Court grants to certify those 85,000 newly-incarcerated inmates, then the rest of 1.4 million ALL U.S. inmates would involved in (or commit) fraud and identity theft by arguing and showing their founding of nearly 7,000 total cases of fraud in 2018. (*Id.* at \*35, (now \*1041)).

The herein-mentioned fraud and identity theft by the 1.4 million All U.S. inmates was the Defendants' main argument in opposing the 85,000 newly-incarcerated inmates' certification. (However, ironically, the *Scholl*'s Defendants' worry became a reality by the Song's Defendants). If *Scholl*'s Plaintiffs were asking for the 1.4 million All U.S. inmates' certification, then the *Scholl*'s Defendants had no reason to argue herein-mentioned fraud and identity theft because 1.4 million All U.S. inmates will be certified and those certified 1.4 million All U.S. inmates need not to commit any tax-fraud or identity theft. (*Id.* at \*35, (now \*1041)). Therefore, Plaintiff Song avers that, in its word, context, and *Scholl*'s Defendants' argument, the Certified EIP-eligible inmates are the newly-incarcerated, at the very least, 85,000, but not the 1.4 million All U.S. inmates, which is impractical. (*Id.* at \*35, (now \*1041); at \*38, (now \*1043); at \*6, (now \*1023); and at \*43, (now \*1047)).

Sixthly; in *Scholl*, the Northern District California U.S. District Judge, Honorable Phyllis J. Hamilton, ("*Scholl*'s Court" and/or "*Scholl* Court Judge," hereafter), heard the both parties and their arguments as mentioned above, and

made decision under the law by granting *Scholl* Plaintiffs' relief sought by certifying the EIP-Eligible, at the very least, 85,000, and similarly situated inmates; the Scholl-situation-inmates and the Strawn-situation-former-inmates, but not the 1.4 million All U.S. inmates. (*Id.* at \*32-34, 38, 43, (now \*1040-1043, 1047), and *Scholl-2*, at \*6-7).

Therefore, it is clear that *Scholl's* Court certified the class member inmates for the CARES Act Pandemic EIP Stimulus Checks, which were the limited number of inmates who were newly-incarcerated-inmates in the United States since/from March 2020 to then-present time (September 2020) (- the first group of Scholl-situation-inmates -) and who were newly-released-former-inmates during Pandemic (- the second group of Strawn-situation-inmates -) but not the 1.4 million All U.S. inmates.

**The United States District Court Middle District of Tennessee ("TN U.S. District Court" or "Song's Court," hereafter)’s Erroneous reading of Scholl cases and Erroneous Order:**

In denying Song's Claim, honorable TN U.S. District Court, Song's Court, stated several times in its Memorandum Opinion (D.E. # 41) that Song's understanding of Scholl case is "fundamentally flawed." (D.E. # 41, at 17, 18, ... *passim*). However, Song respectfully avers that the TN U.S. District Court, Song's Court, erred in reading *Scholl* cases in its context as mentioned above six reasons.

Upon showing above six (6) reasons according to the Scholl cases, Plaintiff Song avers that the United States District Court Middle District of Tennessee was incorrect in reading Scholl cases by extending Scholl's certified EIP-Eligible inmates from, at the very least, 85,000+ newly-incarcerated-inmates, to 1.4 million All U.S. inmates. The United States Court of Appeals for the 6th Circuit ("U.S.C.A. 6th Cir." hereafter) was incorrect in holding the TN U.S. District Court - the Song's Court's - erroneous order and order in this matter in violation of the Article III of the United States Constitution,

**As to the Song's Claim A and F: Soliciting Tax Fraud in 2020 and 2021:**

The LEP Pro Se Appellant Song alleged the true facts according to *Scholl v. Mnuchin*, 20-cv-05309-PJH (*Scholl-1~5*) in making his points in his complaint and in his first amended complaint and on appeal that:

(a) The *Scholl* Court certified two (2) groups of inmates as Class eligible for the COVID- 19 EIP Stimulus Check: the *Scholl*-like newly-incarcerated-inmates who are incarcerated since/from March 27, 2020 and the Strawn-like former-inmates who are released from prison during the Pandemic and meet the eligibility requirements described in the CARES Act, BUT NOT THE 1.4 MILLION ALL U.S. INMATES.

(b) The majority of certified first group of *Scholl*-like Newly-incarcerated-inmates (6% of U.S. inmates) are mostly in the County Jail but not in prison at that time of *Scholl's* order because of the required criminal procedures which takes nearly a year. (The *Scholl* Court's Order was in September 2020 and the first group of *Scholl*-like newly-incarcerated-inmates are since/from March 2020). The second-group of Strawn-like former-inmates are mostly in out-side prison and/or in the process of release, (less than 3% of U.S. inmates).

(c) The *Scholl*-like first group newly-incarcerated-inmates are numbered by the IRS as about 85,000 contrasting with the over 1.4 million All U.S. inmates. The *Scholl's* Plaintiffs, (Scholl and Strawn), also used this figure of number in their argument in 1. Rule 23(a), a. Numerosity; (the honorable *Scholl's* Court stated);

"Plaintiffs argue that Numerosity is satisfied because joinder of over 1.4 million incarcerated persons as parties would be impractical. Mtn. at 20. The court agrees with plaintiffs because, at the very least, the IRS initially issued EIP to nearly 85,000 incarcerated persons before issuing guidance to intercept the payments, pay the EIPs, or void the payment checks. Salahi Decl., Ex. 6 at 6. This factor is met." (*Id.* at \*38, (now \*1043)).

The *Scholl's* parties and Court, as well as Plaintiff Song, used the numbers in comparing the small number of certified inmates from the all U.S. inmates. The about 85,000 number is only for the *Scholl*-like newly-incarcerated-inmates who received stimulus check through the IRS's first distribution on April 10, 2020, prior the IRS's change in position that caused Plaintiffs to bring the *Scholl*-case in the first place (*Id.* at \*1035).

(d) The *Scholl's* Court also ordered *Scholl's* Defendants to notify the qualified inmates (the *Scholl*-like newly-incarcerated-inmates, about 85,000 inmates, who are mainly in the County Jail) via individualized letter. The first group is nearly 6% from the 1.4 million All U.S. inmates. And there are more smaller number of Strawn-like second group of former-inmates who are released from prison during the Pandemic, nearly 3% from the 1.4 million All U.S. inmates, which information is well known to every prison staffs as well as inmates because of their release from prison by, either, the expiration of sentence or parole. There is no extra knowledge needed for the prison officials to figure out who are the 3% inmates being released from prison because they are in the Parole/Pre-Release Classes. There is no reason for Song's Defendants (prison officials) to distribute the Tax Forms and misleading, fraudulent, and soliciting Instruction to All U.S. inmates unless they (Song's Defendants) have evident interest and/or motive. Plaintiff Song explained the Defendants' interest and/or motive in his original complaint and the first amended complaint as;

- (1) to create a political leverage by giving the current administration a hard time financially, because the economy has been one of the top three issues on almost every U.S. election, and because the current administration is evidently against Song's Defendants for political reasons/policy and for its Anti-private prison policy as an election-promise,
- (2) to smuggle the contrabands (cell-phone, tobacco, marijuana, cocaine, heroine, meth, fentanyl, ...) into the penal facility for their own profit,
- (3) to intercept/steal some of inmates Stimulus Checks, ...

The Song's Court, the United States District Court, erroneously stated that;

"It is clear that Plaintiff's understanding of the *[Scholl]* case is fundamentally flawed." (*Song v. Parker*, # 3:21-cv-00154, 2022WL 509033, (M.D.TN 02/18/2022) ("Song-1" hereafter, at \*9).

In saying so, ironically, the Song's Court actually agreed with Song by saying that;

"In *Scholl*, plaintiffs sued to challenge the IRS's change in position and sought 'to certify a class of all individuals who were incarcerated across the United States since March 27, 2020 and meet the eligibility requirements described in the CARES Act.' *Id.* at 1023." (*Song-1*, at \*9).

The Song's Court continued;

"Plaintiff's misunderstanding of *Scholl* appears to flow from his misstatement of the certified class. Plaintiff seems to believe that the *Scholl* class was limited to incarcerated individuals who also experienced the COVID-19 pandemic as a non-inmate, either because they (1) entered incarceration at some point between March and September 2020, or (2) were released from prison 'during the pandemic.' (*Doc. No. 27* at 26.) Plaintiff also seems to believe that the *Scholl* class was limited to 'about 85,000 inmates.' (*Id.*) Plaintiff is incorrect across the board. As relevant to Plaintiff's misstatements, the actual certified in *Scholl* consisted of '[a]ll United States citizens and legal permanent residents who are or were incarcerated ... at any time from March 27, 2020 to the present.' *Scholl v. Mnuchin*, No. 20-cv-05309-PJH, 2020WL5877674, at \*9 (N.D.Cal. Oct. 2,2020), *Scholl II* (in here, *Scholl-4*), 494 F.Supp.3d at 691. The phrase 'were incarcerated' did not mean that the individual must have entered incarceration - i.e., become incarcerated - during that period. Contrary to Plaintiff's apparent implication, the phrase "to the present" did not refer to the date (September 24, 2020) the court provisionally certified the class for purposes of the preliminary injunction. See *Scholl I* (same as *Scholl-1*), 489 F.Supp.3d 1008. And the '85,000' figure in *Scholl* referred not to the size of the class, but rather to the number of inmates who received stimulus checks through the IRS's first disbursement on April 10, 2022, prior to the IRS's change in position that prompted plaintiffs to bring the case in the first place. See *Scholl I* (same as *Scholl-1*), 489 F.Supp.3d 1035, 1042-43; *Scholl II* (in here, *Scholl-4*), 494 F.Supp.3d at 676." (*Song v. Parker, et al.*, 3:21-cv-00154 2022 WL509033, at \*9 (M.D.TN, 02/18/2022)).

It is evident that the Song's Court, the United States District Court, erred in reading *Scholl* cases because it failed in understanding the two (2) groups of the *Scholl* Court's certified class. In *Scholl*, there are two (2) groups of certified individuals as mentioned above (a) and (b), and Song's first amended complaint, and on appeal: therefore, the *Scholl's* Court worded as "are" and "were" both. (*Scholl-1*, at \*43 (now at \*1047); and *Scholl-2*, at \*7). The "are" is for the first group of *Scholl*-like newly-incarcerated inmates, and the "were" is for the second group of *Strawn*-like

former inmates. Plaintiff Song did not flaw in reading *Scholl*.

As to the figure of numbers ("85,000" and "1.4 million All U.S. inmates"), Plaintiff Song has the similar position as the Song's Court. The Song's Court, however, misread Song's complaint and erred. Again, the *Scholl* [case's] parties, *Scholl*'s Honorable Judge, and Plaintiff Song used those figures to make point of the fraction of small number of the certified Class. But only the Song's Court took that numbers as literally. The Song's Court erred in this matter. Song did not flaw in this matter.

As to the use of "September 2020 (then-present time)", Plaintiff Song has the similar position as Song's Court. Song, moreover, explained about the "September 2020 (then-present time)" as "(starting from the 2020-tax-claim to) during Pandemic" or "until the end of the 2020 tax-year," because Plaintiff Song believes that it is necessary for the IRS to re-arrange the time limit after the 2020 tax-year because the IRS policy focuses on each tax-year. (It was the early and middle of 2021 when Song filed his Complaint and first amended complaint). The 2019-taxpayers' tax-year should have been closed in 2020. The 2020-taxpayers' tax-year was in 2021. - Now, it's the middle of 2022. If there is another EIP Stimulus check, the IRS may need different set of time-line for the 2022 tax-return. (See Song's first amended complaint). Plaintiff Song, therefore, avers that he has the same or similar position as Song's Court explained. Song did not flaw in this matter.

Contrary to the Song's Court's misunderstanding, the first group of *Scholl*-like certified class was limited to the incarcerated individuals who also experienced the COVID-19 pandemic as non-inmates, (as the 2019-taxpayers or 2019-non-filers), which are the main focus in *Scholl*-2 and -3, and they [(1)] entered incarceration at some point between March and September 2020. Therefore, they claimed for the 2020 tax return, the IRS's first disbursement on April 10, 2022, prior to the IRS's change in position. They are well deserved for the 2020 tax return even though they became incarcerated during pandemic. The Song's Court erred in this matter. Song did not flaw in this matter.

As to the second group of Strawn-like former-inmates, they [(2)] were released from prison 'during the pandemic.' (Doc. No. 27 at 26.) This group of Strawn-like former-inmates are the "were incarcerated" inmates. (*Scholl*-1, at \*43 (now at \*1047); and *Scholl*-2, at \*7). The Song's Court explained this as;

"The phrase 'were incarcerated' did not mean that the individual must have entered incarceration - i.e., become incarcerated - during that period." (*Id.*).

The Song's Court missed the point and erred in this matter. Song did not flaw in this matter.

According to the facts mentioned herein and Song's first amended complaint; the Song's Court incorrectly decided the facts. Furthermore, interestingly, by mentioning that Song's reading is flawed as mentioned above, the Song's Court did not mention that "the 1.4 million All United States inmates are certified class." According to Song's Court's silence, Song's understanding of "the 1.4 million All United States inmates are not the certified class" is conceded by the Song's Court. If not so, the Song's Court would have mentioned it in its Memorandum Opinion. See *Song v. Parker, et al., 3:21-cv-00154 2022 WL509033, (M.D.TN, 02/18/2022), Song-1*. Therefore, it is more than reasonable to say that the Song's Court's silence is a concede of (or agreement to) Song's understanding that "the 1.4 million All United States inmates are not the certified class."

The Song's Court, by conceding that "the 1.4 million All United States inmates are not the certified class" by silence, continued that;

"Plaintiff also seems to believe that prison officials' advice regarding the submission of Form 1040 must have been erroneous (and deliberately so) because the IRS 'could have sent ... [s]timulus checks to ALL American inmates without 1040 tax Forms.' (Doc. No. 27 at \*26.) Plaintiff incorrect again. To follow rapid disbursement of payments, the CARES Act permitted the IRS to determine an individual's eligibility for a stimulus check using certain information it already had at the time the Act was signed into law on March 27, 2020 - an individual's 2019 tax returns, or if the individual 'did not file 2019 returns,' then the individual's 2018 tax returns 'or certain Social Security statement from the calendar year 2019.' Scholl, 2020WL5877674, (Scholl-2) 'ORDER GRANTING MOTION FOR NOTICE TO CLASS MEMBERS, ...' at \*1 (citing 26 U.S.C. Section 6428(f)(1) - (f)(5). Some individuals, however, did not file tax returns in 2018 or 2019, but were nonetheless eligible for a stimulus check. See *id.* This includes individuals who were not required to file a tax return because they had 'little to no income.' See *id.* For these individuals (referred to in *Scholl* as 'non-filers'), the IRS 'provided a simplified method ... to file a simplified return ... and thus receive a [stimulus check].' *Id.* The IRS encouraged non-filers to submit a simplified tax return through an online portal, but those who could not use the online portal could 'mail a simplified paper tax return for tax year 2019.' *Id.*" (*Song v. Parker, et al., 3:21-cv-00154 2022 WL509033, Song-1, at \*9 (M.D.TN, 02/18/2022)*).

"As part of the relief granted in *Scholl*, the court ordered the IRS to distribute certain 'document to all state and federal correctional facilities for which it maintain[ed] any communication channel,' including a cover letter and 'an electronic version of the simplified paper return (Form 1040/1040-SR) ... with instruction on how to complete the simplified form.' *Scholl v. Mnuchin*, No. 20-cv-05309-PJH, 2020WL6059648, (Scholl-3), 'ORDER RE: NOTICE TO CLASS MEMBERS,' at \*2 (N.D.Cal. 10/07/2020). The cover letter was to include, among other things, 'a statement strongly recommending and urging prison administrations to prominently post and distribute copies of ... Form 1040/1040-SR[ ] and instructions for those forms to incarcerated persons as expeditiously as possible.' *Id.* The IRS initially set a deadline for non-filers to mail the simplified tax return by 10/15/2020, but the court ordered an extension 'for class members to postmark their simplified paper returns' by 10/30/2020. *Id.* at \*3-4." (*Song v. Parker, et al., 3:21-cv-00154 2022 WL509033, Song-1, at \*10 (M.D.TN, 02/18/2022)*).

"It appears that TDOC officials did, in fact, provide inmates with copies of simplified tax return forms and accompanying instructions for using those forms to request a stimulus check. (See Doc. No. 1-1 at 11-18

(Exhibits B and C, Form 1040 and instructions). According to a grievance response attached to the corrected Amended Complaint, these forms and instructions 'came directly from the IRS.' (*Id.* at 33 (Exhibit I, Grievance Response.) And the *Scholl* court took 'no position on whether plaintiffs or class members [were] in fact owed advance refund payments was 'left to the IRS.' *Scholl I*, 489 F.Supp.3d, at 1047. ACCORDINGLY, BY DISTRIBUTING TAX RETURN FORMS TO INMATES AND PROVIDING INSTRUCTIONS FOR USING THOSE FORMS TO REQUEST A STIMULUS CHECK, PRISON OFFICIALS WERE ACTING IN ACCORDANCE WITH SCHOLL - NOT SOLICITING TAX FRAUD." (*Id.* at \*10)

"In sum, *Scholl* drew the consequential but fairly straightforward conclusion that the IRS had an 'unlawful policy' of 'excluding incarcerated individuals from receiving CARES Act benefits' 'on the basis of their incarcerated status,' and it enjoined the enforcement of that policy. *Scholl II*, (in here *Scholl-4*), 494 F.Supp.3d, at 692-92. IT SEEMS THAT PLAINTIFF (SONG) LOOKED INTO SCHOLL, DREW INCORRECT FACTUAL AND LEGAL INFERENCES FROM THE CASE, AND JUMPED TO THE CONCLUSION THAT PRISON OFFICIALS MUST HAVE BEEN SOLICITING TAX FRAUD. THAT CONCLUSION PROMPTED PLAINTIFF TO FILE NUMEROUS GRIEVANCES AND LETTERS, EVENTUALLY LEADING TO THIS LAWSUIT. THAT CONCLUSION LIKEWISE IS FRIVOLOUS. ACCORDINGLY, PLAINTIFF (SONG) FAILS TO STATE A CLAIM REGARDING TAX-FRAUD SOLICITATION." (*Id.* at \*10).

The Holy Bible contains the law to Jews, the law to Christians, and the laws to Gentiles. Even though the rhema-laws are the same to all (in God) and the logos-laws are different, God - the Ultimate Judge - doeth not apply the Jews' logos-law to Christians because He is Righteous, Just, and Merciful. - In Song's case, the Song's Court erred in applying the "**Law To Class Members**" (*Scholl-2* and *Scholl-3*, above) "**to 1.4 million All U.S. inmates**" and in justifying the Song's Defendants' wrongdoings in violation of the Article 3 to the U.S. Constitution, in Law and Equity clause.

It is clear that *Scholl-2* (10/02/2022) is an ORDER GRANTING MOTION FOR NOTICE TO CLASS MEMBERS, GRANTING MOTIONS TO SHORTEN TIME, AND SETTING BRIEFING SCHEDULE, and *Scholl-3* (10/07/2020) is an ORDER RE: NOTICE TO CLASS MEMBERS. There is specific purpose for those two (2) orders which is to notify to the CLASS MEMBERS, not the 1.4 million All U.S. inmates. Especially, *Scholl-2* and -3 are for the part of first *Scholl*-like newly-incarcerated inmates. Those *Scholl*-like newly-incarcerated inmates are also two (2) groups: "2019-taxfilers" and "non-filers" due to their low-income or no-income status. The IRS has the information for the first group of *Scholl*-like newly-incarcerated inmates who was 2019-taxfiler. However, the IRS has no information for the first group of *Scholl*-like newly-incarcerated "2019-non-filers" inmates ("non-filers" hereafter). These Pandemic-incarcerated "non-filers" are among the newly-incarcerated inmates since/from March 2020 and during the Pandemic. If compared with the 1.4 All U.S. inmates, these "non-filers" are just a fraction of

number such as 2 - 3% and the most of these "non-filers" are also in the County Jail, not prison, like 2019-filers because of the required Criminal Procedures which takes nearly a year. *Scholl*-2 and -3 are to notify those small fraction of newly-incarcerated 2019-non-filer inmates - not the 1.4 million All U.S. inmates.

The actual *Scholl*-text (case) started on 9/24/2022 (*Scholl*-1), moves on 10/2/2020 (*Scholl*-2), on 10/7/2020 (*Scholl*-3), on 10/14/2020 (*Scholl*-4), and ended on 1/11/2021 (*Scholl*-5). Please see attached Appendix-C, "IRS Letter to partners," which are the part of *Scholl*-3. If any one uses these Appendix-C, OUT OF CONTEXT, he/she can deceive and solicit the 1.4 million All U.S. inmates because the 1.4 million All U.S. inmates also are "non-filers" during their incarceration. - That's the deception and solicitation OUT OF CONTEXT and such an action is a crime in any country including the United States of America. And that is what happened in this case. *Scholl*-texts (laws) are good and just if used in the meaning of the context. However, out of the context, the *Scholl*'s partial portions can be used to deceive and soliciting others for their own purposes which is the case in here.

In Song's case, ACCORDINGLY, BY DISTRIBUTING TAX RETURN FORMS, [which was ordered to notify to the fraction of non-filer class members], TO [ALL] INMATES AND PROVIDING INSTRUCTIONS FOR USING THOSE FORMS TO REQUEST A STIMULUS CHECK, PRISON OFFICIALS WERE ACTING IN SOLICITING TAX FRAUD AGAINST SCHOLL - NOT ACCORDANCE WITH SCHOLL. (Compare with *Song*-1, at \*10 (02/18/2022)).

Furthermore, Song presented the reason for Song's Defendants (prison officials) to distribute the Tax Forms and misleading, fraudulent, and soliciting Instruction to All U.S. inmates because they have interest and/or motive. Plaintiff Song explained the interest and/or motive in his original complaint and the first amended complaint and above page #3.

The Song's Court fundamentally erred and flawed in reading and using the *Scholl*-texts and IT SEEMS THAT SONG'S COURT LOOKED INTO SCHOLL OUT OF CONTEXT, DREW INCORRECT FACTUAL AND LEGAL INFERENCES FROM THE PORTION OF SCHOLL, AND JUMPED TO THE CONCLUSION THAT PRISON OFFICIALS MUST HAVE NOT BEEN SOLICITING TAX FRAUD. THAT CONCLUSION PROMPTED ITS ERRONEOUS DENIAL ORDER (*Song*-1, at \*10). THAT DENIAL ORDER, LIKEWISE, IS ERRONEOUS AND FLAWED. ACCORDINGLY, PLAINTIFF (SONG) WAS SUCCESSFUL IN STATING A

**CLAIM REGARDING TAX-FRAUD SOLICITATION. (*Id.* at \*10)**

Therefore, the Song's Court incorrectly decide the facts in denying Song's complaint.

As to the Standing: the Song's Court stated that Song was "attempting to raise a tax-fraud solicitation claim on behalf of other prisoners or the U.S. Government, he does not have standing to do so." (*Song-1*, at \*8 (M.D.TN, 02/18/2022)). Song avers that he has the standing to raise a tax-fraud solicitation claim on behalf of the U.S. Government under the Preamble, Article III Section 2, and 1st Amendment to the United States Constitution.

"WE THE PEOPLE of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this CONSTITUTION for the United States of America." (*Preamble to the U.S. Constitution*).

"Article III, 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." (*Section 2. Article III to the U.S. Constitution*).

"1st Amendment. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right people peacefully to assemble, and to petition the Government for a redress of grievances." (*1st Amendment to the U.S. Constitution*).

Plaintiff Song believes that he has constitutional standing to raise a tax-fraud solicitation claim on behalf of the U.S. Government under herein-mentioned Authority. Even though without mentioning the Governmental-standing, your Plaintiff Song has constitutional standing for his own-behalf in an effort to satisfy the requirement outlined Section 1983 by showing the depravation of the constitutional rights, suffering and actual injury as mentioned in his first amended complaint as mentioned below.

"There are two elements to section 1983 claim. First, a plaintiff must allege that a defendant acted under color of state law. Second, a plaintiff must allege that the defendant's conduct deprived the plaintiff of rights secured under federal law." *Handy-Clay v. City of Memphis, Tenn.*, 695 F.3d 531, 539 (6th Cir. 2012).

The Song's Court found correctly that Plaintiff Song meets the first requirement, as the named Defendants - eleven TTCC officials, two TDOC officials, and one CoreCivic official - are state actors for section 1983 purpose. (*Song v. Parker, Song-1*, at \*7). As to the second requirement, Plaintiff Song showed the depravation of the constitutional rights, suffering and actual injury as mentioned in his first amended complaint. (See Song's First

Amended Complaint, pages 12-15, 19, 23, 26, 30-31, 34, 38, and 39-40). The Song's Court only partially stated it in its denial order. See *Song-1*, at \*3, \*5, \*6, \*8, and \*11). Therefore, contrary to the Song's Court's finding, Song has standing for this suit by stating a colorable claim for section 1983 claim.

As to the frivolous matter; the Song's Court found that "Song's assertion that prison officials solicited him to commit tax fraud is simply frivolous by depending upon its erroneous reading of *Scholl*." (*Song-1*, at \*8). However, contrary to the Song's Court's finding, as mentioned above, Song's claim on solicitation to tax fraud is not frivolous.

In addition, in Memorandum Opinion, *Song-1*, at \*9, the Song's Court stated that "The Northern District of California's ruling in *Scholl* are available,..." but this statement was not true for the inmates at TTCC (the for-profit CoreCivic-run private prisons) during some period of time BECAUSE the TTCC-like for-profit CoreCivic-run private prisons have the LexusNexus law-computer which behind at least three-four months for the new decisions/cases. Other TDOC prisons have Westlaw law-computer and they have access to cases on the same day of decision without the institutional update. However, at TTCC/CoreCivic prison, with the less-expensive LexusNexus law-computer, the system must be updated every three month with new cases/decisions/laws, manually, and if the update team is late, which delay results in extra two-three months extra delay. Therefore, at TTCC/CoreCivic prison, all law-information are late, at the very least, by three months. The TTCC inmates was able to access to those *Scholl* cases from February or March 2021. Therefore, it was the first time for Song, who was at TTCC, to read the September-decided *Scholl-1* case in November after receiving it from California lawfirm who represented Scholl. - Contrary to the Song's Court's finding in this matter, the *Scholl* was not available to TTCC inmates till February or March 2021.

THEREFORE, (1) THE TN U.S. DISTRICT COURT WAS INCORRECT IN READING *SCHOLL V. MNUCHIN*, # 20-CV-05309 (N.D. CAL. SEP. 24, 2020), 489 F. SUPP.3D 1008 (*SCHOLL-1*); *SCHOLL-2* (ON 10/02/2020, SLIP COPY); *SCHOLL-3* (ON 10/7/2020, SLIP COPY), *SCHOLL-4* (ON 10/14/2020, 494 F.SUPP.3D 661), AND *SCHOLL-5*: (ON 11/11/2021, SLIP COPY) IN ITS CONTEXT AS MENTIONED ABOVE CLAIM "A" AND "F." AND  
(2) THE PLAINTIFF SONG STATED COLORABLE AND COGNIZABLE CLAIM UNDER SECTION 1983 BY ALLEGING THE TDOC/CORECIVIC (TTCC) OFFICIALS' TAX-FRAUD SOLICITATION CLAIM AS MENTIONED ABOVE CLAIM "A" AND "F."

(3) WHETHER THE PLAINTIFF SONG'S REMAINING CLAIMS ARE COLORABLE AND COGNIZABLE UNDER THE SECTION 1983 AS MENTIONED BELOW CLAIM "B" THROUGH "G"?

AND

(4) WHETHER THE PLAINTIFF SONG'S CONSTITUTIONAL RIGHTS WERE VIOLATED BY THE DEFENDANTS' ACTION AND INACTION, AND BY THE UNITED STATES DISTRICT COURT'S ERROR IN DENYING HIS CLAIM BASED ON THE U.S. DISTRICT COURT'S MISLEADING OF SCHOLL CASES AS MENTIONED ABOVE CLAIM "A" THROUGH "G"?

**As to the Song's Claim B: Advice from Inmate Working in TTCC Law Library:**

Plaintiff Song alleged this claim that Grady's pseudo-legal aide wrongfully advised Song on prisoner's eligibility for stimulus checks causing him to commit tax fraud. The Song's Court found that;

"As discussed above (claim A and F), the factual premise of this claim is flawed because Plaintiff's reading of Scholl is incorrect. Moreover, even assuming that Plaintiff did receive flawed legal advice from an inmate in the law library, that allegation does not state a claim as a matter of law, .... because Song failed to state a claim regarding tax-fraud solicitation." (*Song v. Parker, et al., Song-1.* at \*10-11).

"Plaintiff incorrectly asserts that he meets the actual requirement through the injuries he allegedly suffered from the supposed tax-fraud solicitation. ... Here, Plaintiff does not allege that the inmate working in the TTCC Law library affected his ability to bring a non-frivolous claim (because Song failed to state a claim regarding tax-fraud solicitation). Plaintiff therefore fails to state a claim via Claim B. (*Id.* at \*11).

After wrongfully finding and concluding the Claim A and F: Soliciting Tax Fraud in 2020 and 2021, as mentioned above, the Song's Court denied the Claim B with the reason based on the faulty finding in Claim A and F, but not fact. The Song's Court erred in this matter in denying Claim B. - Contrary to the Song's Court's faulty finding, because of the wrongful advice from the pseudo-legal aide inmate working in TTCC Law Library, Plaintiff Song's constitutional rights were deprived, suffered financial loss, and suffered physically, mentally, and spiritually, and Song was put to the danger of prosecution as mentioned in his first amended complaint at \*19, and \*12-17, which are non-frivolous claim. In other words, "the inmate working in the TTCC Law library affected Song to commit a tax fraud crime by providing Song with wrong and illegal advice." This statement is far more satisfactory than "he affected his ability to bring a non-frivolous claim" and the both statements are in the same category in effect regarding the depravation of constitutional right to access to courts/legal counsel.

As mentioned above Claim A and F, according to the Scholl-texts, it is evident that more than 94% TTCC inmates (including Plaintiff Song) participated the history-breaking massive tax-fraud crime due to the prison officials solicitation and due to the TTCC law library's inadequate legal assistance. Such an incriminating solicitation and [wrongful] legal advice meet the requirement to actual injury and, therefore, the requirement to state

a claim under section 1983 is met.

**As to the Song's Claim C: Retaliatory Disciplinary Proceedings:**

This claim began with the claim B, above mentioned. As a part of Grady and Bailey's wrongdoings in running TTCC Library, Plaintiff Song discovered that Grady has been utilizing an inmate-librarian as a pseudo-legal aide at TTCC Law Library during last 3-years, which was an act of constitutional violation depriving Song and all TTCC inmates' constitutional rights to access to courts/legal counsel which was also the violation of the TDOC policy and TTCC policy. (See TDOC policy and Legal Aide Job Description, Exhibits-N, O, and 17 to the first amended complaint). Song discovered such a constitutional violation by reading a copy of email communication between TTCC Inmate Job Coordinator (IJC) and Grady. (Exhibits-K and 11 to the first amended complaint). The email copy was "declassified-&-freely given" to Song. Song attached the copy of the hand-written email communication to his grievance against Grady and Bailey. Grady incited McMIndes and Matthew, and McMIndes and Matthew wrote Song up alleging "violation of policy" in obtaining email communication by Grady's request as a part of retaliation over the Grievance. Disciplinary Hearing Officer (DHO) Sgt. Ms. Lopez convicted Song guilty for "Larceny" (instead of charged "Violation of Policy"), TTCC Warden Byrd affirmed, TDOC Dotson overturned and remanded case for rehearing. (A week later after convicting Song, DHO Lopez was fired from DHO for putting her fingers into other two (2) female staffs' vaginas in an effort to dig out some contraband in there), and a new DHO eventually dismissed Song's write-up, but the punishments and damages were not recovered until this date. - \$4.00 fine, four (4) weeks commissary restriction, one (1) month electronic-restriction, and much humiliation and abuse.

The Song's Court categorized this claim as following;

"[Song's] constitutional rights to be free from retaliation and the depravation of due process." (*Song-1*, at. \*11).

**As to Retaliation:**

a. Retaliation:

"...Here, Plaintiff fails to state a claim because he was not engaged in protected conduct when he filed the grievance that led to the allegedly retaliatory write-up and disciplinary proceeding. ... Regardless of whether Plaintiff carries a lasting disciplinary conviction for obtaining and submitting a copy of private email communication between prison officials, those actions were an abusive or manipulative use of the grievance system. Therefore, the filing of the Grady and Bailey Grievances was not protected conduct. ... Plaintiff therefore fails a retaliation claim via C." (*Song v. Parker, Song-1*, at \*11-13).

First of all; the copy of herein mentioned email between prison officials (IJC and Grady), was not a "private" in this proceeding because it was released by the one of the two prison officials, the TTCC Inmate Job Coordinator (IJC), to the TTCC Grievance Chair, and subsequently from the TTCC Grievance Chair to *an* inmate. It was, therefore, "declassified" by the TTCC authorities. (*The* inmate filed a grievance against IJC and Grady, IJC; and Grady exchanged via email regarding *the* inmate's grievance, and supplied the copy of email communication to the TTCC Grievance Chair, and the TTCC Grievance Chair "declassified and released" it to *the* inmate who is in the TTCC general compound by discretion being without security concern. (TDOC policy # 501.01(VI)(M)(O), Release of Records). At the time when the release of records occurred, the whole TTCC was in the middle of the COVID-19 lockdown, (from late 2020 to early 2021). No inmate, including Song, had access to any computer or email due to the Pandemic precaution measurement lockdown. The declassified records (by TTCC Grievance Chair) was released to inmates per policy (*Id*). The "declassified and released" records are not "private." Further, the "declassified" records was "freely" given to Song by *the* grievant-inmate with "free-to-use" condition because *the* grievant-inmate wanted Song to use the materials). Therefore, herein-mentioned copy of email communication was not "private" and the action to use them was not "abusive or manipulative use of the grievance system."

Secondly; the "declassified-&-freely-given" email communications contained serious wrongdoing of Grady by utilizing an inmate-librarian as a pseudo-legal aide at TTCC Law Library more than three years which affecting Plaintiff Song and all TTCC inmates' legal rights to access to courts/legal counsel. The content of herein-mentioned email communication was Song's and all TTCC inmates' business, *per se*, because it contained the information of the depravation of all TTCC inmates' constitutional right to access to courts/legal counsel. Under the whistle-blower Act and First Amendment, Plaintiff Song had to make the proper and sound decision for himself and for all other TTCC inmates. And Song's such an action in exposing the depravation of all TTCC inmates' constitutional right by Grady's wrongdoings and demanding the curative action should be protected under herein-mentioned authorities. See *Kuhn v. Washington County*, 709 F.3d 612, (6th Cir. 03/11/2013) and *Kindle v. City of Jeffersontown, KY.*, 374 Fed. Appx. 562, (03/15/2010). Contrary to Song's Court's finding, Song's action was not "abusive or manipulative use of the grievance system," but "proper and sound" action under herein-mentioned authorities.

Thirdly; the Song' Court failed in finding the facts but picked in part up here little, there little, to support

its faulty-decision. The Song's Court fundamentally erred in this matter and, therefore, injustice has occurred. The Song's Court's faulty-fact-finding and faulty-decision do discourage people from exercising people's 1st Amendment right and the Court's denial was contrary to the protection policy by the whistle-blower act. The Song's Court unfairly and unreasonably took a side for Defendants in screening Song's complaint. Contrary to the Song's Court's faulty-finding, "Plaintiff Song was retaliated by his constitutionally protected conduct (under the 1st Amendment and Whistle-blower act) and defendants took adverse action that is deterring Song of ordinary firmness from continuing to engage in that conduct, and the adverse action was motivated at least in part by the Song's protected conduct" satisfying *Hill v. Lappin*, 630 F.3d 468, 472 (6th Cir.2010).

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**As to due process:**

Out of herein-mentioned copy of the "declassified-&-freely given" email communication (Exhibits-K and 11 to the first amended complaint), Song was written up for the disciplinary action for "violation of policy." (Exhibit 2, Retaliatory Disciplinary Proceedings). However, contrary to the allegation, there was no policy violated, and the offense was changed illegally by the DHO Sgt. Lopez from "violation of policy" to "Larceny" during hearing in violation of Policy and constitution under the 1st, 5th, 7th, 8th, and 14th Amendments to the United States Constitution; "Redress, Due Process, financial loss, Unusual & Cruel punishment, Double Jeopardy clauses."

The Song's Court stated:

"Plaintiff must show that (1) he had a protected liberty or property interest; (2) he was deprived of that interest; and (3) the state did not afford him adequate procedural rights prior to depriving him of that interest. *Janinski v. Tyler*, 729 F.3d 531, 541 (6th Cir. 2013). ... The first prong of this claim is a threshold requirement. See *Wilkinson v. Austin*, 545 U.S. 209, 221 (2005). Therefore, "the question of what process is due in relevant only if the inmate establishes a constitutionally protected interest." *Pickeluaupt v. Jackson*, 364 F. App'x 221, 224 (6th Cir. 2010). ... Here, Plaintiff fails to state a due process claim both because he does not allege a constitutionally protected interest, and because he was afforded adequate process." (*Song-1*, at \*13).

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**As to "Constitutionally Protected Interest;"** contrary to Song's Court's erroneous finding, Song actually alleged that because of Defendants' action in here which was also in violation of Song's constitutionally protected grievance and whistle-blowing act against Defendant's three-year-long and ongoing wrongdoings, which resulted in the retaliatory disciplinary write-up and punishments, Song's constitutionally protected right to due process in disciplinary hearing was violated as mentioned herein. Song alleged this claim in his first amended complaint in page \*23.

Specifically, Song's Court's finding was, first, "Song's loss and suffering (\$4.00 fine, 4-months commissary restriction, 30-day electronic restriction) is not *atypical or significant* for the purpose of a due process claim." (*Song-1*, at \*13); and second, "Song had a hearing anyway." (*Id.*).

First, however, the Song's Court was totally missing the causation (Defendant Grady's 3-year-long ongoing violation against Song and all TTCC inmates by utilizing an inmate-librarian a pseudo-legal aide at TTCC Law Library) and protected act (Song's protected 1st Amendment & protected Whistle-blower act in exposing prison staff's constitutional violation, and illegal retaliatory punishment write-up). In such an extraordinary circumstance, Song's loss and suffering in any degree must be considered as the liberty or property interest by departing from the *atypical or significant hardship* requirement for the best interest of justice. In support, Song shows the following. (The Song's Court cited the following cases in denying Song's Claim C);

- (1) *Barnes v. Garner*, No. 3:18-cv-01030, 2020WL4339649, (M.D. Tenn. 7/27/2020); and
- (2) *Watkins v. Lindamood*, No. 1:16-cv-00092, 2018WL1508732, (M.D. Tenn. 3/27/2018); and
- (3) *Bazzetta v. McGinnis*, 430 F.3d 795, (6th Cir.2005): ..... (*Song-1*, at \*13)

In inmate Barnes's case, the prison officer searched a package addressed to Barnes on 8/22/2017, and discovered more than a pound of loose tobacco and eight HTC smart phones with chargers hidden inside two coffee bags. Barnes was charged with conspiracy to violate state law in indictment ID# 01288447. (*Barnes*, at \*2). Barnes's Defendant, TTCC, DHO, Garner asserted in her statement of undisputed material fact that Barnes pleaded guilty to this disciplinary action which Barnes was received \$4.00 fine, three-month visitation restriction, and institutional probation. (*Id.*) .... Barnes's causation and Barnes's unprotected [guilty] status - smuggling contraband - are *far from* Song's circumstances. The Song's Court erred in citing *Barnes* in denying Song's claim in this matter.

In inmate Watkins's case, a prison guard discovered a contraband cell phone in a cell shared by Watkins and his cellmate, inmate Lyles. Watkins, who is African-American, received a disciplinary charge and loss of privileges as a result, a written warning, \$4.00 fine, and three month visitation restriction. .... Watkins's causation and Watkins's unprotected [guilty] status - cell phone charge - are *far from* Song's circumstances. The Song's Court erred in citing *Watkins* in denying Song's claim in this matter.

In inmate Bazzetta's case, the class of Michigan state inmates and their prospective visitors brought section 1983 action challenging constitutionality of Michigan state Department Of Corrections (MDOC)'s regulation

banning virtually all visitation for prisoners found guilty administratively of two or more violations of major misconduct charge of substance abuse. ... Bazzetta's causation and Bazzetta's unprotected [guilty] status - 2+ drug abuse - are far from Song's circumstances. - The Song's causation and protected act are far from the Song's Court's relying cases; *Barnes*, *Watkins*, and *Bazzetta*.

Therefore, Song's Court's citation and relying laws are unreasonable and Song's request for the departure from the atypical or significant hardship requirement for the best interest of justice is reasonable for the best interest of justice.

Second, the Song's Court was totally missing the point: The Song's disciplinary write-up was a retaliation against the 1st Amendment protected and Whistle-blower protected actions. Song's actions in filing a grievance with "declassified-&-freely given information" was an act to recover his (and all TTCC inmates') deprived constitutional right to access to courts/legal counsel which deserve no punishment at any degree for the best interest of justice. Song's loss and suffering and depravation of rights should be recovered.

As to "Adequate Process;" the Song's Defendants thought the use of the "declassified-&-freely given" copy of email communication is a "violation of policy." Even the Song's Court thought so. (*Song-1*, at \*12-\*13). However, the fact is that there is no such policy in TDOC and TTCC saying that the use of the "declassified-&-freely given" copy of email communication is a "violation of policy." Or, at least, the Defendants failed to present the policy and section number which saying that the use of the "declassified-&-freely given" copy of email communication is a "violation of policy." According to TDOC policy and law, in such a situation of lacking prosecution and/or inappropriate offense (charge), the TDOC policy demands to dismiss the inappropriate (wrong) offense (charge) and re-start the disciplinary proceedings from the beginning with a proper offense (charge) if any. (TDOC Policy # 502.01 (VI)(E) (3)). Then, Song could enjoy due process rights with proper offense (charge), such as "to prepare of case, to research and/or investigate, to present his own version of the facts in challenging the proper offense (charge), to call witnesses in his own behalf, and to cross-examine his accuser & hostile witnesses based on the proper offense he charges for" ... (*Id.* (VI)(K)(3)). However, in Song's case, Defendant #14 DHO, Sgt. Ms. Lopez deprived all of Song's constitutional rights by convicting him with a brand-new offense of "Larceny" without any prior notification. Per policy, Song had his constitutional due process right to be notified prior to his offense being

changed with proper paper-form of notice. DHO Ms. Lopez, however, even admitting that she "is wrong in doing this (finding Song guilty of "Larceny" who charged and tried for "Violation of Policy") but I'm gonna find him guilty because he filed so many grievances," found Song guilty of "Larceny" in violation of herein mentioned policies as well as the 5th, 8th, and 14th Amendments to the U.S. Constitution; "Due process, Unusual & Cruel Punishment."

The Song's Court unreasonably and erroneously found that,

"Plaintiff [Song] was present and had an opportunity to present a defense. Accordingly, Plaintiff [Song] fails to state a (procedural) due process claim via Claim C."

In finding so, the Song's Court erred in reading the fact as mentioned above. The Song's Court took the illegal conviction process as a legal and adequate process. Miscarriage of Justice has occurred in this matter. The Song's Court failed by consenting to the TTCC DHO Sgt. Lopez's arbitrary & illegal Judicial Proceeding as a legally adequate process. Contrary to Song's Court's finding, Song was deprived an adequate process in this matter. The Song's Court erred in denying Claim C.

#### As to the Song's Claim D and F: Intercepting Stimulus Checks in 2020 and 2021:

The Song's Court found;

"Plaintiff [Song] fails to state a claim on this basis for three reasons.

.....  
First, ... Because Plaintiff was not sent a stimulus check for Thomas or any other CoreCivic official to intercept in 2020 or 2021, Plaintiff [Song] fails to state a claim regarding the interception of stimulus checks.

Second, even if the IRS issue Plaintiff a stimulus check, and a prison official deliberately intercepted it, that would be an "unauthorized, intentional depravation of a prisoner's property." See *Weatherspoon v. Woods*, No. 16-1277, 2017WL3923335, at \*3 (6th Cir. 2/24/2017). Such an act "does not give rise to a due process claim if the state provides an adequate post-conviction remedy." *Id.* (citing *Hudson v. Palmer*, 468 U.S. 517, 533 (1984); *Parratt v. Tylor*, 451 U.S. 527, 541 (1981)). "[T]he state of Tennessee does provide an adequate post-conviction remedy for takings of property." *McMillan v. Fielding*, 136 F.App'x 818, 820 (6th Cir. 2005) (citing *Brooks v. Dutson*, 751 F.2d 197, 199 (6th Cir. 1985)). Plaintiff does not allege either "that he attempted a[ ] post-depravation remed[y]," or that the post-depravation remedy was "inadequate." See *id.* Plaintiff fails to state a claim regarding the interception of stimulus checks for this independent reason.

Third, Plaintiff's allegations on this subject are entirely speculative and unsupported by alleged factual matter by citing *Ctr. for Bio-Ethical Reform, INC. v. Napolitano*, 648 F.3d 365, 377 (6th Cir. 2011) .... Plaintiff does make a few isolated factual assertions on this subject, but they do not have the necessary factual context to "nudge [his] claims" of the wide spread scheme by prison officials to intercept stimulus checks for personal gain "across the line from conceivable to plausible." See *Twombly*, 550 U.S. at 570. "Determining whether a complaint states a plausible claim for relief" is "a context-specific task that requires that reviewing court to draw on its judicial experience and common sense." *Iqbal*, 556 U.S. at 679. And "a 'naked assertion[ ] devoid of further factual enhancement' ... is not entitled to presumption of truth." *Ctr. for Bio-Ethical Reform, INC. v. Napolitano*, 648 F.3d 365, 373 (6th Cir. 2011) ....

Plaintiff makes a bare allegation that every inmate who gave Thames a tax return did not receive a stimulus check, but he did not provide any further factual support for that allegation, such as an explanation for how he would know this to be true. See *id.* at 374. ... Similarly , Plaintiff makes a bare allegation that in February 2021, he "was informed" that Thames "was in Federal custody due to her role on the inmates' stimulus check interception along with other CoreCivic employees." (Doc. No. 27 at 41). This reads more like rumor than a factual allegation .... Plaintiff's check-interception allegations are pure conjecture, and the few allegations with some factual basis do not have sufficient support for the Court to consider them plausible. The Court therefore finds implausible Plaintiff's far-fetched allegation of a deliberate, ongoing scheme to intercept inmates' stimulus checks for the benefit of CoreCivic and CoreCivic staff members. See *Cooney v. Rossiter*, 583 F.3d 967, 971 (7th Cir. 2009) ("[L]itigation ... alleging ... a vast, encompassing conspiracy ... must meet a high standard of plausibility."). For all of these reasons, Plaintiff fails to state a claim regarding the interception of stimulus checks." (Song-1, at \*14-15).

Most importantly, the Song's Court already conceded by silence that "except the small number of 6% of newly-incarcerated inmates who are mostly in the County Jail (INSTEAD OF PRISON), the 1.4 million All U.S. inmates are not the *Scholl*-certified class member who were eligible for the COVID-19 Stimulus EIP checks." See above Claim A and F.

As explained above, (and as the Song's Court quoted above), the *Scholl*-2 and -3 are the ORDER TO NOTIFY TO CLASS MEMBERS, which are the small number of newly-incarcerated inmates, but not the 1.4 million U.S. All inmates.

As above-mentioned fact is clear that the *Scholl*-like newly-incarcerated inmates were mostly in the County Jail, that some of Strawn-like released (former) inmates were already outside prison, that some of Strawn-like being-released inmates who were still in prison for required process, whose names and information are the top priority to the prison officials and they are in the parole/pre-release classes, and that, therefore, the prison officials did not need to notify All inmates if the prison officials were doing the notification. (But the Defendants solicited ALL inmates, anyway).

Knowing these facts and conceding it by silence, the Song's Court erred in outlining above three reasons.

First, (by the Song's Court order), it is still unknown how many inmates' stimulus checks were intercepted by the Defendants. Since the issuance of EIP-1 in 2020, till now, all American Taxpayers heard more than 10 times of the news regarding the interception of Stimulus Checks. Recently, on 10/05/2022, the IRS at Memphis, Tennessee, the officials was caught up in stealing the COIVID-19 Stimulus Checks and spending on new car, fancy clothes, luxurious vacations, ....(which was aired via Channel 5 News at 5:00 PM at Memphis, Tennessee area). The Officials

interception of Stimulus Checks are no more implausible or foreign. It is plausible and domestic in the United States. Upon his plausible and domestic allegation, Song can prove and present more detailed fact during/through discovery and investigation with investigator and/or lawyer because of his incarceration status. From his complaint to his first amended complaint, Song presented the facts as mentioned herein regarding the prison officials solicitation and interception of inmates' stimulus checks. Plaintiff Song explained the Defendant's interest and/or motive in soliciting All inmates to commit massive tax fraud. See above Song's Claim A and F: Soliciting Tax Fraud in 2020 and 2021, (c) (1) - (3).

It is true to say that the most inmates are criminals and tend to break the law. Therefore, it is the correctional officers duty to supervise inmates to make sure they are in crime-free environment. The most inmates will break the law if any chance is given to them. The Song's Defendants knew such an inmates' crime-tendency. Having in mind the fact that inmates criminals tendency in breaking the law, the prison staffs' alleged solicitation worked as the gasoline to the inmates' crime-fire in this case.

As to the prison staff's involvement and motive in solicitation and interception of stimulus checks, it also is true to say that the majority TTCC CoreCivic for-profit prison staffs are mentally defected and they have experienced difficult time in the freeworld because of, either or both, their mental-defect and/or extreme laziness. There are few staffs who are the victims of the crime whose intention is to revenge to any inmate. (However, of course there are few staffs who are really a normal and decent and good human-being. They surely deserve much respect for their good works for the society and for the inmates' rehabilitation). - The majority for-profit prison staffs also involved in prisoner-profiteering scam either with group or individually.

For example; during the Pandemic, the illegal drugs over-flew at the TTCC compound. The illegal drugs were brought into facility by the prison staffs - by individual staffs, by food-delivery, by commissary-delivery, and by maintenance staffs. As alleged in his first amended complaint, in page # 22, some of prison staffs have been using their body-parts (under the fat-belly, vagina, anus, mouth, under the hair, ...) as well as inside their foods as the drug hiding places in smuggling various contrabands into the facility. The Song's Defendant #14, TTCC DHO. Sgt. Ms. Lopez, soon after illegally convicting Song, (as mentioned in retaliatory write-up claim), put her fingers into other two (2) TTCC female staffs' vaginas in an effort to dig out the contraband which was hidden in there, and she was

told to step down from the DHO for that action, for 6-months, by Defendant #4 Byrd, then-TTCC Warden. However, there is no way to say that Defendant #14 Lopez is clean from the smuggling. - Simply she was targeting a certain group of female staffs who are not in her group. Therefore, among inmates it is generally speaking that, "at NECX, the tobacco and weed smell like food (i.e., chicken, sausage, ....), at the NWCX, they smell like poop/sh\*t, and at TTCC, they smell like urine.

Furthermore, because of the prison staffs' such a hard labor in smuggling the contrabands, one role of cigarette costs \$10.00, a pack - \$200.00, a pack of Top - \$200.00, a pound of loose tobacco - \$2,000.00, a pound of marijuana - \$6,000.00, .... which are the high-profit business for prison staffs. Some of prison staffs are making more money by smuggling than their pay-check. Recently, in September, 2022, a WTSP Correctional Officer, Ms. Binkley, who was 15+year experienced C/O under TDOC/WTSP, caught up for the act of smuggling of tobacco wrapped up under her chest on the last day of the Annual State Inspection. More amazing thing is, she dropped several WTSP staff names saying "\*\*\*\*[staff name]... has been bringing Cocaine, #####[staff name]... has been bringing Heroine, ... and now you accuse me in bringing some god-damn-tobacco!?" Because of her name-dropping, the WTSP Warden did not refer the case to the District Attorney General. The WTSP Warden did not want to lose the half of WTSP staffs for one incident or he did not want to lose his right and left arm for the incident. These prison staffs have clear-cut motive in soliciting inmates to commit a massive tax fraud. These-kind prison staffs need inmates money by any means for their side-income.

In other side of prison staffs, it's a totally different motive. They knew the fact that most inmates do not deserve the COVID-19 stimulus check, and they just wanted to steal the inmates' not-so-deserved-stimulus checks. CoreCivic, the former name CCA ("Corrections Corporation of America"), runs the for-profit private prisons such as TTCC, HCCF, WCCF, .... and they do everything for profit. They do not care about the inmates' rehabilitation. Anyone opens the Westlaw Computer, he/she will find that a truck-full of complaints and lawsuits filed by the inmates against the CoreCivic/CCA. (See Song's Claim G. CoreCivic's Deeply-Rooted Corruptions and TDOC's Cover-up). Less than 5% grievance is actually filed with the Court. However, the filed-lawsuits are not meaning that the CoreCivic/CCA is guilty of the allegations; but it shows the volume of their corruption, and it shows the reason why the current-administration has promised to end the private-prison in the United States during its campaign. Also,

there is a truck full of record and evidence about the corruption and smuggling and overdose death relating to the drug smuggling by the prison staffs. (Exhibit-7, first amended complaint).

Therefore, the Defendants had reasons to solicit inmates for their undeserved stimulus checks to making sure the money flows in the facility for their side-income and/or stealing and/or intercepting them.

Moreover, before and after becoming the president of American Correctional Association ("ACA"), the Defendant #1 TDOC Commissioner, Tony Parker, was linked with the CoreCivic (which was CCA) in various ways creating the "fringe-benefits" under the "quid pro quo-relationship" more than a decade. (See Song's first amended complaint). After current lawsuit in seeking for his resignation, Defendant #1 stepped down from TDOC Commissioner and became a part of the for-profit CoreCivic/CCA, openly, from December, 2021. Parker was in the top of the solicitation and interception as a fringe-benefit under the quid pro quo relationship. - Therefore, Song did not fail to state a colorable claim regarding the interception of stimulus checks.

Second, the Song's Court erred in relying on *Weatherspoon v. Woods*, No. 16-1277, 2017WL3923335, at \*3 (6th Cir. 2/24/2017); *Hudson v. Palmer*, 468 U.S. 517, 533 (1984); *Parratt v. Tylor*, 451 U.S. 527, 541 (1981); *McMillan v. Fielding*, 136 F.App'x 818, 820 (6th Cir. 2005) and *Brooks v. Dutson*, 751 F.2d 197, 199 (6th Cir. 1985) in denying Song's claim because the subject of Song's claim D and F were "government-issued stimulus check cash money," while the subject of the other cases are "inmate personal property such as T.V., Radio, Fan, Clothes, Shoes, Hat, Books, ..." Further, the alleged crime/offense by the Song's Defendants in this matter was "theft and/or stealing of cash-money by intercepting the stimulus-checks" while other cases (it) was "destruction of T.V.-like inmate personal property".

The value of "cash money" stays, while the value of "inmates property" is not. The ultimate owner of herein-mentioned 94% stimulus checks is "our U.S. Government," and "the Pandemic- suffered U.S. taxpayers," while the inmate personal property is "individual inmate." The two subjects cannot be compared in screening 1983 complaint. As to the Song's Court's citing in this matter;

In inmate *Weatherspoon's* case, inmate *Weatherspoon's* claim was that the prison officials "destroyed his personal property during frequent-retaliatory-shakedown, filed false misconduct reports, failed to provide him with urgent dental care service, denied medical care for intense pain, placed him in segregation, rejected grievance and

improperly placed on modified grievance access, denied him grievance forms, ..." - It is clear that the subject in *Weatherspoon's* claim was, among others abuse/violation, "destroyed personal property." which is far from the subject of Song's claim, the "government-issued stimulus check cash money." Song's Court's application of *Weatherspoon* to Song's case is unreasonable and flawed.

In *Hudson's* case, an inmate brought action against prison officer under federal civil rights statute alleging destruction of his [personal] property. The U.S. District Court of Virginia entered summary judgment in favor of guard, and the 4th Circuit Court of Appeals affirmed in part and reversed in part and remanded at 697 F.2d 1220. On certiorari, our U.S. Supreme Court held that (1) inmate had no reasonable expectation of privacy in his prison cell entitling him to protection of 4th Amendment, and (2) unauthorized intentional deprivation of property by prison guard did not constitute violation of due process clause meaningful postdeprivation remedies for the loss were available under state law (such as the lost/stolen property claim). - It is clear that the subject in *Hudson's* claim was, "destruction of his [personal] property during cell-search which was in his cell," which is far-far from Song's subject. Song's Court's application of *Hudson* to Song's case is unreasonable and flawed. Furthermore, *Hudson's* "unauthorized intentional deprivation of property" was the "T.V.-like personal property" but not "government-issued stimulus check cash money at Bank/Inmate-Trustfund, or in transfer." Therefore, the Song's Court erred in holding "the interception of inmates' government-issued stimulus check cash money" as "unauthorized intentional deprivation of property." Further, in *Weatherspoon* and *Hudson's* cases, the inmates had a state-claim-procedure called "lost/stolen property claims." TDOC policy # 214.04, via TN Division of Claims Administration. However, in Song's case, there is no policy regarding (claiming) "prison official's interception of inmates' government-issued stimulus check cash money" other than grievance and 1983 lawsuit because Song's subject is NOT the "unauthorized intentional deprivation of property." In addition, in Song's case, it was "theft and/or stealing of cash-money by intercepting the stimulus" while *Hudson* and *Weatherspoon's* case it was not - "destruction of T.V.-like inmate personal property". The crime committed by the Song's Defendant is far from the *Hudson* and *Weatherspoon's* defendants. (One is "destruction during cell-search" and the other is "stealing money from Bank/Inmate-Trustfund or in transfer."). Therefore, Song exhausted the institutional grievance and filed his 1983 complaint. In such a situation, the Song's Court erred by applying unrelated cases (*Weatherspoon* and *Hudson*) to Song's case and

denying Song's case for failure of following the inappropriate and unnecessary requirement.

In *Parratt's* case, an inmate of state prison, whose mail order hobby materials were lost when normal procedure for receipt of mail package was not followed brought suit under section 1983 against prison officials to recover their value. The United States District Court for the District of Nebraska entered summary judgment for prisoner, and prison officials appealed. The United States Court of Appeals for the 8th Circuit, 620 F.2d 307, affirmed, and certiorari was granted. The Supreme Court held that although prisoner had been deprived of property under color of state law, he did not state claim for relief under section 1983, as he did not sufficiently allege violation of due process clause of the 14th Amendment. - In this case, the subject was "inmate's lost/stolen personal property" which is far from Song's subject, which is "government-issued stimulus check cash money." In this case, because the subject was the "inmate's personal lost/stolen property," as mentioned in *Hudson*, the inmate should have gone through the well-available "property claims" which they call as "tort claims" in Nebraska. This case, therefore, also is far from Song's situation. The Song's Court erred in applying *Parratt* case in denying Song's claim D and F.

Third, contrary to the Song's Court's citing on *Ctr. for Bio-Ethical Reform, INC. v. Napolitano*, 648 F.3d 365, 377 (6th Cir. 2011), Song's allegation on this subject are NOT entirely speculative and unsupported by alleged factual matter.

In *Ctr. for Bio-Ethical Reform, INC. v. Napolitano* ("CBER, INC" hereafter)'s case; the pro-life, non-profit organization brought action against Secretary of the Department of Homeland Secretary, and Attorney General of the United States, alleging policy, practice, procedure, and/or custom of defendants that targeted for disfavored treatment those individuals and groups that defendants deemed to be "right-wing extremists" violated 1st and 5th Amendments. Defendants moved to dismiss for failure to state claim. The United States District Court for the Eastern District of Michigan, 2010WL1257361, granted motion. Non-profit appealed. The U.S. Court of Appeals 6th Circuit held that non-profit failed to state a claim of retaliation under the 1st Amendment, and failed to state a claim that government violated its right to equal protection. - It is fair to say that the pro-choice v. pro-life policy was marked in certain way since the *Low v. Wade*, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed.2d 147 (1973) and remarked, for now, with *Dobbs v. Jackson Women's Health Organization*, 142 S.Ct. 2228, 2022 WL 2276808 (2022). The left-wing

allegation and the right-wing government's argument, vice versa, on disfavored treatment, retaliation and equal protection claim over policy, are, of course, well and entirely speculative and unsupported by alleged factual matter in there, which claim is *far away from* the Song's case. It is unfair to compare the "*CBER, INC*'s disfavored treatment claim" to the Song's "prison officials' interception of government-issued stimulus check cash money. Any rational trier of fact would disagree with the Song's Court's application of "*CBER, INC*" case to Song's case with the good reasons as mentioned in this matter. ("first," "second," and "third"). Contrary to "*CBER, INC*" case, Song alleged NOT "few isolated assertion" BUT plausible allegation regarding the facts (Scholl-law, Defendant's Solicitation, Defendant's motive, and so on...).

Under *Twombly, Iqbal, and Cooney*, if the Song's Court "exercised sound judicial experience and common sense," (which was not happened in Song's case as mentioned above), the Court should have found that the Song's allegation is "plausible" and "entitled to presumption of truth." (*Id*). Therefore, the Song's Court erred in denying this claim.

#### **As to the Claim E: Interception of Legal Mail:**

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On 2/12/2021, Plaintiff Song finished his original complaint alleging, among others, the prison officials' solicitation of herein-mentioned inmates' COVID-19 Stimulus EIP checks, packed and marked as legal mail, and handed it to Defendant #11 O'Daniel (TTCC Unit DC-Case Manager) to mail it out, on the same day, with a signed CR-2727 (Inmate Money-Withdrawal Request for legal mail postage) per policy.

Till 2/22/2021, Song did not hear anything from the Trustfund Department regarding the Money-Withdrawal Request status (for the postage which was not processed until then) and from the Mailroom (for his 2-12-2021 requested legal mail status).

On the same day, 2/22/2021, upon Song's request through O'Daniel (via telephone and CR-3118, Inmate Request), the Defendant #13 Jane Doe, TTCC Mailroom Supervisor, answered that "Song's Legal Mail *will be* mailed out in an early March, [2021]." Song did not get such a ridiculous answer and filed an emergency grievance against O'Daniel and Doe by alleging that his legal mail (the original complaint to the U.S. District Court at Nashville, TN) has been intercepted by TTCC prison official(s).

Then, the next day, on 2/23/2021, the TTCC trustfund Department processed Song's 2-12-2021-signed CR-

2727 (Inmate Money-Withdrawal Request for postage for his original complaint), and the U.S. District Court at Nashville received it on 2/26/2021 and filed as *Song v. Parker, et al., 3:21-cv-00154*. Song was notified by the Court on 3/8/2021.

However, on 2/25/2021, by acknowledging his original complaint was intercepted by TTCC officials, Song prepared his Second/Reconstructed 1983 complaint ("reconstructed complaint" hereafter) and mailed it to the Court via another inmate's name in an effort to avoid his mail being intercepted, again. The Court received the Song's reconstructed complaint on 3/2/2021 and filed as *Song v. Parker, et al., 3:21-cv-00175*. Song was notified by the Court on 3/5/2021. (See *Song-1*, # 29-30).

On/around 2/25/2021, Defendant #13 Doe, TTCC Mailroom Supervisor, provided Song with a copy of legal mail logbook which showing that Song's [original complaint] mail was mailed out on 2/17/2021, which later changed to 2/16/2021. However, she already answered that Song's legal mail "*will be mailed in an early March, [2021]*" in her 2-22-2021 answer, which is the truthful statement. along with the Trustfund Department Money-Withdrawal process on 2/23/2021.

Even though Defendant #13 Doe, TTCC Mailroom Supervisor, manipulated the mailing date of the Song's original complaint, 2/16/2021 and 2/17/2021, the Clerk of the U.S. District Court and the U.S. Postal Service are truthful. Because the Song's original complaint was received by the Clerk of the U.S. District Court and filed on 2/26/2021, the actual delivery by the U.S. Postal Service was from 2/23/2021 to 2/26/2021, (three days), and these facts are supported by the TTCC Trustfund Department CR-2727 process on 2/23/2021 and by the Doe's initial answer without manipulation (or prior to manipulation) on 2/22/2021, which was "Song's Legal Mail *will be* mailed out in an early March, [2021]," which means that the Song's original complaint was not mailed out on 2/16/2021 nor 2/17/2021, but on 2/23/2021. The Defendants O'Daniel and/or Doe surely stamped on the Song's original complaint envelope as 2/17/2021, but they did not mail the Song's original complaint out until 2/23/2021.

Disregarding the fact, the Song's Court reached unreasonable and unsound conclusion in this matter. The Song's Court found that;

"Plaintiff fails to state a claim on this basis as a matter of fact and law. The record reflects that prison officials submitted the original complaint for mailing to this court one week before Plaintiff filed the emergency grievance. . ." (*Song-1*, at \*15).

The Song's Court erred in finding the fact and allegation in this matter. The fact is *that* Song submitted his original complaint on 2/12/2022 by handing it to Defendant #11 O'Daniel, *that* the prison officials stamped the date on the envelope of the Song's original complaint as (or on) 2/17/2021; however, *that* the mail was actually submitted by the Defendant(s) for mailing to the U.S. Postal Service on 2/23/2021, which is the same day when the TTCC

Trustfund Dept actually processed the Song's signed CR-2727 for postage. The fact is *that* there were 14-days gap

between Defendant O'Daniel+Doe's hands and the actual receiving by the U.S. District Court, (from 2/12/2021 to 2/26/2021), because the Song's institutional trustfund was accessed on 2/23/2021, which is "a day after" the Song's inquiry and the emergency grievance, and *that* the Court received the Song's original complaint on 2/26/2021.

Therefore, Song alleged correctly that it was plausible that Defendant #11 O'Daniel and/or Defendant #13 Doe intercepted the Song's original complaint from 2/12/2021 to 2/23/2021. Given fact and reasonable allegation, under *Nolan, Williams, 1660 Southfield Ltd. P'Ship, Iqbal, and Twombly*, the Song's allegation is plausible. The Song's Court erred in this matter.

The Song's Court further stated;

"Moreover, even if prison officials delayed of the original complaint, he fails as a matter of law to state an access-to-courts claim. As discussed above, this claim requires Plaintiff to allege that he suffered actual prejudice to his pursuit of a non-frivolous legal claim. See *Lewis*, 518 U.S. at 351 "Examples of actual prejudice to pending or contemplated litigation include having a case dismissed, being unable to file a complaint, and missing a court-imposed deadline." *Hardin-Bey v. Rutter*, 420 F.3d 571, 578 (6th Cir. 2005). ... And as the course of litigation in this case reflects, any delay between Plaintiff delivering the original complaint to prison officials and the Court receiving the complaint did not prejudice Plaintiff in any way. Accordingly, Plaintiff fails to state a claim via Claim E." (*Song-1*, \*15-\*16).

The Song's Court erred in reading and applying *Lewis*. In *Lewis*, the non-English-speaking inmate alleged the inadequacy of the prison law library while Song alleged the TTCC for-profit CoreCivic-run prison staffs' interception of his 1983 original complaint which is a stealing criminal act. The *subject matter is too remote between Lewis and Song*. Moreover, the Lewis's outlined "*actual injury*" is the "*examples*" but not limited to. Even under *Lewis*, the Song's alleged "actual injuries, sufferings, and deprived constitutional rights" are cognizable because of the existing constitutional violations under the 1st, 5th, 7th, 8th, and 14th Amendments to the United States Constitution. (*Id.* First Amended Complaint # 30-31). In *Lewis* it is also stated;

"The actual injury requirement would hardly serve the purpose we have described above - of preventing

courts from undertaking tasks assigned to the political branches - if once a plaintiff demonstrated harm from one particular inadequacy in government administration, the Courts were authorized to remedy all inadequacies in the administration." *Lewis*, 146 S.Ct, 2174, at \*2183.

It is clear, again, that the *Lewis's concern* was the inadequacy of the prison Law Library and not the prison officials' criminal act of intercepting/stealing inmate's legal mail in an effort to harm Song's 1st Amendment right to Redress by causing hundreds more suffering, injury, and constitutional violation. (First Amended Complaint # 30-31).

*Lewis* requires inmates to [must] show that the inadequacies or restrictions cause the "actual injury," i.e., "that a nonfrivolous claim had been frustrated or was being impeded." *Lewis* 518 U.S. at \*351-53. In Song's case, *the prison officials' interception act was not a mere inadequacies or restriction but a criminal action* in an effort to stop Song to file his 1983 original complaint, which contained the nonfrivolous claims as mentioned above. If Song did not file his emergency grievance, the Defendants would have destroyed Song's 1983 original complaint. (This circumstances is *far from Lewis's inadequacy of the prison Law Library* in this matter). Therefore, the *Lewis* citation is unreasonable in Song's case, and even under *Lewis*, the Song's alleged actual injury is cognizable for the 1983 claim as mentioned herein and First Amended Complaint # 30-31.

The Song's Court erred again because the Court missed Plaintiff Song's alleged suffering, injury, and depravation of the constitutional rights. See Song's first amended complaint, pages #30-31.

#### As to the Claim F: Retaliatory Transfer and Withholding Plaintiff's Personal Property:

##### a. Retaliation.

The Song's Court denied this Retaliation claim by finding;

"Here, Plaintiff fails to state a claim because he was not engaging in protected conduct when he submitted the grievances and letter that allegedly led to the transfer. ... First, as explained throughout this opinion, Plaintiff's [tax-fraud solicitation claims] are frivolous. Plaintiff therefore was not engaged in protected conduct in making these submissions. See *Clark*, 413 F.App'x at 812-13...." (Song-1, at \*16)

The Song's Court erred because, as explained above, Song has *engaged in protected conduct on* the solicitation allegation under the *Scholl*, *on* the right to access-to-courts claim, .... and *on* the corruption claim in detail under above-listed constitution of the U.S. In *Clark*, an inmate "complained to visiting officials from department of rehabilitation and corrections about general conditions of prison" and "testifying in federal court in a civil right lawsuit by the ACLU" which resulted in his transfer. Whether Clark's complaint about general condition

of prison is protected conduct or not, it is clear that Song has *engaged in protected conduct when he submitted the grievances and letters regarding prison officials criminal actions in detail that led to the transfer under the 1st, 5th, 7th, 8th, and 14th Amendments*. Song's [tax-fraud solicitation] claims are non-frivolous according to Scholl. Plaintiff therefore *engaged in protected conduct in making these submissions.*

Grady's anti-governmental behavior was really serious. Her Extremist-Socialist-Doctrine ("ESD" hereafter) at TTCC was aimed to inmates (at Library) and to newly-arrived staffs (at their orientation). Especially her extreme interpretation and application of "One person, one right- Doctrine" is directly against TDOC/ TTCC policy, law, statute, and constitutions of the Tennessee and the United States. For example: By ignoring the policy on Job and Programming, under her ESD, Grady allows 1 hour library-time for library workers and non-library workers, equally. According to the Job Policy, the inmate workers should work for 30-hours per week, 6-hours per day; but under the Grady's ESD, the library workers can work at the Library only 6-hours' per week, 1-hour per day. Therefore, by Grady's ESD, the policies and law and constitutions became "name-only" without effect. - (As for Song, who was born and grew at South Korea until he was 30, he learned and experienced how the ideology can be dangerous even dividing the country, South-&-North, East-&-West, with much blood. Through the history, the Communists normally used the ESD in stealing the majority of unlearned people's heart and overturned then-existing governments or rule of law.

Song has been witnessing that the ESD was in the United States, Tennessee, Hartsville, TTCC, in this 21st Century, which would divide the United States of America. We have the beautiful but weak system of republic with democratic ideology. Therefore, under the constitution, we the people decided the *Row v. Wade*, and we the people changed it, too. We the people decided the *Obergefell v. Hodges* and we the people may change it, too, because we are under democracy. But we the people cannot allow the ESD to divide this country. It's North Korea and Soviet Union where the people work, together, and share the product, together, equally, under the ESD, "one person, one right - Doctrine," (by not knowing that their dictator has been stealing the 90% fat-portion of their products).

Relating this case, Grady did not want inmates to be informed or to be assisted by legal counsel and utilized a librarian-inmate as a pseudo legal aide at TTCC Law Library. Song's position to "stop Grady" is reasonable under the Preamble and the 2nd Amendment to the United States for we-the-people's sake. Song's action was *far from*

manipulation - the deceptive act - in this matter.

b. Withholding Property.

From 2021 to 2022, the Defendant #4 Byrd, TTCC Warden, withheld Song's personal property herein mentioned, but eventually returned to Song in 2022. Therefore, Song is in position to withdraw this issue from the case as MOOT in good faith.

**As to the Claim G: TDOC's Cover-up of CoreCivic's Deeply Rooted Corruption:**

The Song's Court construed this claim as a conspiracy claim and wrongfully found that "Song fails to state a claim" because of Song's allegedly "conclusory and speculative allegations of a wide-ranging conspiracy to cover up wrongdoing at TTCC." Contrary to the Song's Court's finding, Song alleged claims based on fact regarding the TDOC's Cover-up of TTCC/CoreCivic's Deeply-Rooted Corruption. As the Exhibit-7 of the first amended complaint reveals, the detailed paper-proof evidence on Song's claim can be obtained when Song is assisted by an investigator and/or lawyer via discovery because Song is in prison.

For example, when one opens the Westlaw Legal Research Computer, one can find the corruption of the CoreCivic (same as CCA, the CCA is the CoreCivic's former name) by the Court cases/orders. Of course some are denied for relief. However, the volumes of the allegations speak itself - the deeply-rooted corruption of the CoreCivic-run for-profit private prisons and Cover-up by TDOC. For example;

" In 2017 to 2022, there are about, but not limited to, 344 cases/orders by the United States District Court in Tennessee regarding CoreCivic's alleged wrongdoings and corruption from *Bassham v. Dietz*, 2017WL1185224 (3/29/2017) to *Rucker v. Lindamood*, 2022WL370197 (8/26/2022); and 1,902 cases/orders regarding CCA/CoreCivic from 1892 (*Merchants' Nat. Bank v. Chattanooga Const. Co*, 53 F.314 (12/30/1892)) to August 2022."

Among above-mentioned 344 CoreCivic new cases/orders in five years in Tennessee, the Song's Court's honorable Eli Richardson, U.S. District Judge, made 14 cases/orders in 2019-2022 from *Crawford v. CoreCivic*, 2019WL 1440288 (3/29/2019) to *Song v. Parker*, 2022WL509033 (2/18/2022) regarding CoreCivic.

Honorable Richardson, therefore, is well familiar to the CoreCivic's alleged corruption. Herein-mentioned cases are related to the CoreCivic-run for-profit prisons' wrongdoings which are the prison officials violations; abusive treatments, constitutional violation, rape, sexual abuse, destroying personal property, retaliations, medical negligence, wrongful death, illegal use of force, stealing, .....

Through such flooding complaints regarding the CoreCivic-run for-profit prisons' cases, the Song's Court's honorable U.S. District Judge is familiar with the well-reported/alleged corruption of the CoreCivic-run for-profit prisons, due to their nature of "for-profit" (CoreCivic mission) than "Rehabilitation" (TDOC mission). Especially, honorable Richardson is more knowledgeable about such a CoreCivic-run for-profit prisons' wrongdoings because of his former training as a FBI Agent, the most prudent and intelligent agencies in the world.

The Song's Claim on "Deeply-Rooted Corruption in CoreCivic-run for-profit prison and the endless Cover-Up by TDOC" is well-supported by the United States District Courts' numerous cases on CoreCivic/CCA. The Song's claim in this matter is cognizable under 1983 screening process.

However, the Song's Court failed to use the court's prudence, intelligence, sound judicial experience, and common sense discretion, in law and equity, and denied this claim as failure to state a claim.

**As to the Claim On Failure To State a Claim Against Supervisors and TDOC Officials:**

The Song's Court found that;

"Plaintiff's underlying claims being without merit, Plaintiff also fails to allege the level of personal involvement necessary to impose liability on several Defendants under Section 1983. 'Section 1983 liability must be premised on more than ... the right to control one's employees.' *Everson v. Leis*, 556 F.3d 484, 496 (6th Cir. 2009) (citing *Shehee v. Luttrell*, 199 F.3d 295, 300 (6th Cir. 1999)). 'A supervisory official's failure to supervise, control or train [an] offending individual is not actionable unless the supervisor either encouraged the specific incident of misconduct or in some other way directly participate in it.' *Jones v. Clark Cnty., Ky.*, 959 F.3d 748, 761 (6th Cir. 2020) (quoting *Shehee*, 199 F.3d at 300)."

"Here, Plaintiff does not make factual allegations specifically indicating sufficient personal involvement by TTCC Warden Byrd, Assistance Chief of Unit Management Harris, CoreCivic CEO Hininger, TDOC Commissioner Parker, or Assistant TDPC Commissioner Dotson. That is because "[t]he denial of administrative grievances or failure to act by prison officials does not subject supervisors to liability under Section 1983. *Grinter v. Knight*, 532 F.3d 567, 576 (6th Cir. 2008) (quoting *Shehee*, 199 F.3d 300). To the extent that Plaintiff is attempting to impose liability on these Defendants (or any other Defendants) for handling his grievances improperly under applicable prison policies, Plaintiff likewise fails to state a claim. See *Hursey v. Anderson*, No. 16-1146, 2017WL3528206, at \*2 (6th Cir. March 31, 2017) (citations omitted) (affirming dismissal of prisoner's premised on the mishandling of his grievances or violation of the prison policies.")

First of all; the Song's underlying claims are with merit as explained above.

Secondly; the Song's allegation & fact meet the requirement of the level of personal involvement necessary to impose liability on Defendants under Section 1983. See *Iqbal*.

Thirdly; Song made factual allegations specifically indicating sufficient personal involvement by the

Defendants in this case. See first amended complaint page \*24, 19-21, 16-17, 27-28, 32, 36, 39-41.

THEREFORE, (3) THE PLAINTIFF SONG'S REMAINING CLAIMS ARE COLORABLE AND COGNIZABLE UNDER THE SECTION 1983 AS MENTIONED ABOVE CLAIM "B" THROUGH "G."

AND

(4) THE PLAINTIFF SONG'S CONSTITUTIONAL RIGHTS WERE VIOLATED BY THE DEFENDANTS' ACTION AND INACTION, AND BY THE UNITED STATES DISTRICT COURT'S ERROR IN DENYING HIS CLAIM BASED ON THE U.S. DISTRICT COURT'S MISLEADING OF SCHOLL CASES AS MENTIONED ABOVE CLAIM "A" THROUGH "G"?

However, the Song's Court failed to use the court's prudence, intelligence, sound judicial experience, and common sense discretion, in law and equity, and denied this claim as failure to state a claim. See *Young Bok Song v. Tony Parker, et al., (Song-1), 3:21-cv-00154 (M.D. TN. 02/18/2022)*, Appendix B.

#### **UNITED STATES COURT OF APPEALS DECISION:**

Petitioner/Plaintiff/Appellant Song avers that the United States Court of Appeals for the Sixth Circuit failed in denying his Appeal. Moreover, THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT ERRED IN RENDERING OPINION BY CLERK AND NOT BY APPELLATE JUDGES OF THE COURT. (Above Issue # (1). See *Young Bok Song v. Tony Parker, et al., (Song-2), # 22-5199 (6th Cir. 03/08/2023)*, Appendix A.

#### **CONCLUSION**

Upon showing good reasons, Plaintiff states that;

(1) THE TN U.S. DISTRICT COURT AND U.S. COURT OF APPEALS ARE INCORRECT IN READING *SCHOLL V. MNUCHIN*, # 20-CV-05309 (N.D. CAL. SEP. 24, 2020), 489 F. SUPP.3D 1008 (*SCHOLL-1*); *SCHOLL-2* (ON 10/02/2020, SLIP COPY); *SCHOLL-3* (ON 10/7/2020, SLIP COPY), *SCHOLL-4* (ON 10/14/2020, 494 F.SUPP.3D 661), AND *SCHOLL-5*: (ON 11/11/2021, SLIP COPY) IN ITS CONTEXT AS MENTIONED ABOVE CLAIM "A" AND "F." See *Young Bok Song v. Tony Parker, et al., (Song-1), 3:21-cv-00154 (M.D. TN. 02/18/2022)*, Appendix B and *Young Bok Song v. Tony Parker, et al., (Song-2), # 22-5199 (6th Cir. 03/08/2023)*, Appendix A.

(2) THE PLAINTIFF SONG STATED COLORABLE AND COGNIZABLE CLAIM UNDER SECTION 1983 BY ALLEGING THE TDOC/CORECIVIC (TTCC) OFFICIALS' TAX-FRAUD SOLICITATION CLAIM AS MENTIONED ABOVE CLAIM "A" AND "F."

(3) THE PLAINTIFF SONG'S REMAINING CLAIMS ARE COLORABLE AND COGNIZABLE UNDER THE SECTION 1983 AS MENTIONED ABOVE CLAIM "B" THROUGH "G."

(4) THE PLAINTIFF SONG'S CONSTITUTIONAL RIGHTS WERE VIOLATED BY THE DEFENDANTS' ACTION AND INACTION, BY THE UNITED STATES DISTRICT COURT'S ERROR IN DENYING HIS CLAIM BASED ON THE U.S. DISTRICT COURT'S MISLEADING OF SCHOLL CASES, AND BY THE UNITED STATES COURT OF APPEALS' ERROR IN DENYING APPEAL AS MENTIONED ABOVE CLAIM "A" THROUGH "G."

#### **RELIEF SOUGHT**

Petitioner/Plaintiff/Appellant Song prays for the issuance of writ of certiorari and/or any other relief deemed proper, just, and equitable with an appointment of counsel.

Plaintiff Song affirms under the penalty of perjury that foregoing is true and correct according to his knowledge at Henning, Tennessee, on this the 31st day of July, 2023.

Respectfully submitted,

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YBS/lh