

No 23-5638 ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

FILED
SEP 18 2023
OFFICE OF THE CLERK
SUPREME COURT, U.S.

ADRIAN M. JACKSON- PLAINTIFF-APPELLANT

vs.

CLINTON CANADY, III, JUDGE, ET AL,-APPELLEE(S)-RESPONDENT(S)

**ON PETITION FOR A WRIT OF CERTIORARI TO
SIXTH CIRCUIT COURT OF APPEALS**

PETITION FOR WRIT OF CERTIORARI

Mr. Adrian M. Jackson

704 Baker Street

Lansing, MI. 48910

(517) 775-6258

QUESTION(S) PRESENTED

QUESTION NUMBER ONE:

Whether the Sixth Circuit abused its discretion by committing a factual error in which likely impacted the outcome of their Decision, thus, does this justify VACATING and REMANDING their affirmance of the district court's decision ?

QUESTION NUMBER TWO:

Whether the Sixth Circuit abused its discretion by affirmation of the district court clearly erred by failing to afford Mr. Jackson an opportunity to pursue discovery and whom discovery have not been answered but was ruled to be moot, thus, does this justify VACATING and REMANDING the Dismissal of Civil Rights Civil Suit ?

QUESTION NUMBER THREE:

Whether the Sixth Circuit abused its discretion by affirmation of the district court clearly erred by Dismissing Section 1983 Civil Suit Action as a genuine issue as to any material fact existed, thus, does this justify VACATING and REMANDING the Dismissal of Civil Rights Civil Suit and to set the matter for Trial ?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Asst. Public Defender EDWARD HESS

Asst Prosecuting Attorney Joe Finnerty

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2023

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

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

OPINIONS BELOW

[x] For cases from federal courts:

The opinion of the United States court of appeals appears at

Appendix A, to the petition and is

reported at _____; or,

has been designated for publication but is not yet reported;

or,

is unpublished.

The opinion of the United States district court appears at

Appendix B to the petition and is

reported at _____; or,

has been designated for publication but is not yet reported;

or,

is unpublished.

[] For cases from state courts:

The opinion of the highest state court to review the merits

appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet
reported; or,
[] is unpublished.

The opinion of the _____ court
appears at Appendix _____ to the petition and is

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was June 22, 2023

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date:

An extension of time to file the petition for a writ of certiorari was granted to and including _____
(date) in Application No. ___ A _____.
The jurisdiction of the Court is invoked under 28 U.S.C.

1254 (1).

For cases from **state courts**:

The date in which the highest state court decided my case was _____.

A copy of that decision appears at Appendix _____.
The jurisdiction of the Court is invoked under 28 U.S.C.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.
The jurisdiction of the Court is invoked under 28 U.S.C.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___ A _____.
The jurisdiction of the Court is invoked under 28 U.S.C.

The jurisdiction of this Court is invoked under 28 U.S.C. 1257 (a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

PAGE NUMBER

42 U.S.C. 1983 **7,15,16,17,21**

STATEMENT OF THE CASE

On January 31, 2022, Appellant Jackson filed his Civil Rights Civil Suit Complaint against Clinton Canady, III; Edward Hess; and Joe Finnerty. After full briefing commenced, however, before Discovery had commenced the district court granted the Appellees' Motion to Dismiss Plaintiff's Amended Complaint on June 30, 2022. On July 21, 2022, Mr. Jackson filed his Motion To Alter or Amend A Judgment and on November 07, 2022, the district court denied his Rule 59 (e) Motion. A timely Notice of Appeal was filed on November 30, 2022, and the Sixth Circuit Court of Appeals denied Appellant Jackson Civil Rights Civil Suit appeal on June 22, 2023, however, rendered a factual and errors of law by affirmance of the district court's Decision, thus, contrary to U.S. Supreme Court precedents and Michigan controlling law, thus, rendering it difficult for adequate higher court review by the U.S. Supreme Court in the case at bar.

Appellant Jackson, asserts that he now petitions this Honorable U.S. Supreme Court to **GRANT** his Pro Se Petition for a Writ of Certiorari as to Questions One, Two, and Three or as this Supreme Court deems warranted in the case herein.

REASONS FOR GRANTING THE PETITION

Appellant Jackson, acknowledges that a review on a Writ of Certiorari is not a matter of right, but of judicial discretion. A petition

for a writ of certiorari will be granted by this court only for compelling reasons, see Supreme Court Rule 10.

In the instant case, Appellant Jackson, respectfully request that this Court **GRANT** his pro se Petition for a Writ of Certiorari as to Questions Number One, Two, and Three as relevant to question # 1, a factual error was rendered by the Sixth Circuit in which should impact the outcome of the affirmance of the district court's Decision; question # 2, the Sixth Circuit abused its discretion by affirmance of the district court clearly erred by failing to afford Appellant Jackson an opportunity to pursue discovery and whom discovery have not been answered but was ruled moot, and question # 3, the Sixth Court abused its discretion by affirmance of the district court clearly erred by Dismissing Section 1983 Civil Suit Action as a genuine issue as to any material fact existed, thus, these colorable claims merit granting his Petition for Writ of Certiorari or granting a GVR in the case at bar. Consistent with U.S. Supreme Court precedents and Michigan caselaw as to Questions 1, 2, and 3, compels this Honorable U.S. Supreme Court to **GRANT** Adrian M. Jackson's Supreme Court Petition for Writ of Certiorari in the case herein.

QUESTION NUMBER ONE:

Whether the Sixth Circuit abused its discretion by committing a factual error in which likely impacted the outcome of their Decision,

thus, does this justify VACATING and REMANDING their affirmance of the district court's decision ?

In the instant case, Appellant Jackson, asserts that the Sixth Circuit abused its discretion by committing a factual error in which likely impacted the outcome of their Decision as follows:

Appellant Jackson, states that the facts articulated by the Sixth Circuit is in error in which states on page 2, line 7-10, as follows:

"The Court of Appeals also vacated the trial court's order revoking probation because the probation term itself was invalid. Jackson was released from jail after 300 days of imprisonment, and he was never placed on probation, required to wear a tether, or required to participate in a domestic violence program. " These facts are inconsistent with the basis for the Probation Violation as in fact the Probation Violation record states in relevant part as follows:

The Court: Mr. Jackson, hold on. I'm a pretty straight shooter. We had the sentencing. Basically, at the time of the sentencing I wanted you to do some domestic violence counseling because of the situation that arose here. And Mr. Forrest is saying when he went to talk to you about that, your position was that you didn't want to participate in the domestic violence counseling and didn't even feel you should be on probation. That's the information that was communicated to me.

So—

The Defendant: Is it my turn ?

The Court: Go ahead.

The Defendant: **When I did talk to Mr. Forrest, I informed Mr. Forrest the charges I was charged with was a one-year misdemeanor punishable by one year in jail, or \$1,000 fine or two years of probation. In alternative to incarceration at any time I am allowed to say I don't want probation, and actually get a year in the County.**

The Court: **Hold on. I don't think at any time you can make the decision I am not going to do probation, but do jail time. You can make a request, but certainly it's not a right for you to make that call. That's not an option that you have. I guess you can request it. But you can't demand it.**

The Defendant: **Well, according to the statute, the statute says--**

The Court: **Mr. Jackson, I'm very familiar with the statute. It says at the discretion of the Court.**

The Defendant: **I can do one year in the County, or a \$1,000 fine. There is nothing that can be put on top of that one year in the County.**

The Court: **Probation can be put on top of that.**

The Defendant: **Well, it can't. Mr. Hess, if you broke the law, you are supposed to follow me, Mr. Hess.**

The Court: I can sentence you to 360 days in the County Jail, and put you on two years probation. So, I mean, it's not an either/ or situation. You can get jail plus probation, which is what we did.

The Defendant: I can't get jail plus probation. One year in jail or a \$1,000 fine. We had looked it up in the law books.

See Appendix C (A copy of Probation Violation Hearing Transcripts at pages 1-7, before 30th Circuit Judge Canady on Tuesday, October 13, 2020).

The Defendant: You said I am giving up my rights to a hearing or something. I don't understand. I thought we already had a hearing.

The Court: For failing to comply with the request of Mr. Forrest for programming. Your position is, I don't want to do it. You contend that I don't have to do it because that's what the statute says. I don't agree with that.

Mr. Forrest, do you have any information on that?

See Appendix D (A copy of Probation Violation Hearing Transcripts at pages 8-9, before 30th Circuit Judge Canady on Tuesday, October 13, 2020).

The Court: I am going to revoke Mr. Jackson's probation, modify his jail sentence to 365 days, NO EARNED EARLY RELEASE OR TETHER.
HE WILL HAVE CREDIT for --

The Defendant: Your Honor.

The Court: **Excuse me, sir. Excuse me. Just a minute. 177 days credit on this probation violation sentence.**

Okay. Go ahead, Mr. Jackson.

See Appendix E (A copy of Probation Violation Hearing Transcripts at page 11, before 30th Circuit Judge Canady on Tuesday, October 13, 2020).

Mr. Forrest: I don't have any information on that, Your Honor.

Mr. Finnerty: **Your Honor, I have been in contact with Lieutenant Robert Earle at the Sheriff's Department jail. The Defendant has been requesting either tether or earned early release. Lieutenant Earle communicated to the Defendant that he's not eligible based on his conviction for tether. He did -- at least he informed me. Then he informed the Defendant that if he applied for it and was accepted to a job in the jail, he would be able to get earned early release versus tether.**

So according to the jail, he is not eligible for tether. He is eligible for earned early release if he took a job in jail.

The Court: **That tether is operated by the Sheriff's Department, not by us. Okay ? That's not me ordering you to be on tether. Tether would not have started until you were released.**

Mr. Finnerty: **Your Honor, at sentencing you did not address tether or earned early release.**

The Defendant: Excuse me, Your Honor --

The Court: You are not eligible for Sheriff's tether.

The Defendant: The Sheriff told me that the reason I didn't get the tether because he got an e-mail from your office on the 30th of September stating that you weren't allowing me to get Sheriff's tether. A lot of people --

The Court: I don't know about that. But I doubt that seriously. Because we don't even get involved in that. I think it's your charge -- it's the charge of domestic violence that won't allow you to have Sheriff's tether, not me.

The Defendant: It was the Chief Commander that I talked to. He was the one that pulled me to the side and told me that.

The Court: I don't think he sent an e-mail to that effect. I think the fact is the charge itself does not make you eligible for Sheriff's tether.

The Defendant: That's not true, Your Honor.

The Court: I'm finished arguing with you, Mr. Jackson.

I find you in violation of your probation. I'm sentencing you now to 365 days, no earned early release or tether, with credit for 177 days.

You have a right to seek an application to appeal this. That should be the document there. You filled out the other ones. If you wish to appeal this sentence, which will be separate from your

appeal of the original sentence, you are free to do so by filing out the form. All right. Anything else ?

The Defendant: I do need to talk to him. I don't really know.

The Court: **You aren't going to have early release, nor are you doing to have tether. It's a moot point.**

See Appendix F (A copy of Probation Violation Hearing Transcripts at pages 12-14, before 30th Circuit Judge Canady on Tuesday, October 13, 2020).

Appellant Jackson, argues firmly that the factual error in which was rendered by the Sixth Circuit is clearly erroneous in which constitutes an abuse of discretion and the U.S. Supreme Court should **GRANT** Petition for Writ of Certiorari or grant a GVR as to Question Number One in the situation herein. See *Pullman-Standard, Div. of Pullman, Inc. v. Swint*, 456 U.S. 273, 72 L. Ed. 2d 66 (1982).

Question Number Two:

Whether the Sixth Circuit abused its discretion by affirmance of the district court clearly erred by failing to afford Mr. Jackson an opportunity to pursue discovery and whom discovery have not been answered but was ruled to be moot, thus, does this justify VACATING and REMANDING the Dismissal of Civil Rights Civil Suit ?

In the instant case, Appellant Jackson, states that the Sixth Circuit abused its discretion by the affirmance of the district court's dismissal of Adrian M. Jackson's Civil Rights Civil Suit Action prior to Discovery commencing and holding Jackson's Motion for Discovery to be moot. In the beginning of June of 2022, Appellant Jackson filed his Pro Se Motion To Grant Discovery. On June 14, 2022, Defendants' Response To Plaintiff's Motion To Grant Discovery (Doc. # 24). The Appellees' opposed Discovery requested by Mr. Jackson, thus, the district court took no action regarding Mr. Jackson's Motion To Grant Discovery until the district court granted the Appellee's Motion for Summary Judgment on June 30, 2022, thus, ruling Adrian M. Jackson's Motion To Grant Discovery to be moot but this constitutes abuse of discretion in the situation herein. See *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250 n. 5, 106 S. Ct. 2505, 91 L. Ed. 2d 202 (1986); *Ingle v. Yelton*, 439 F.3d 191, 197 (4th Cir. 2006); *Leigh v. Warner Bros., Inc.*, 212 F.3d 1210, 1219 (11th Cir. 2000); and *Salahuddin v. Coughlin*, 993 F.2d 306, 309-10

(2d Cir. 1993) (emphasis added).

The Discovery was an essential component to establishing that the Appellees' were committing false statements within their pleadings and the evidence would have proven that Mr. Jackson did not plead guilty to the Probation Violation and the Appellee Canady lacked jurisdiction to impose Probation Violation, thus, an abuse of discretion occurred when the Sixth Circuit affirmed the district court's decision holding that Appellant Jackson's Motion to Grant Discovery as moot in this instance the U.S. Supreme Court should **GRANT** Adrian M. Jackson a Petition for Writ of Certiorari or grant a GVR as to Question Number Two in the case herein. See Alabama Farm Bureau Mutual Casualty Co., Inc. v. American Fidelity Life Insurance Co., 606 F.2d 602, 609 (5th Cir.), cert. denied, 449 U.S. 820 (1980); Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 250 n. 5, 106 S. Ct. 2505, 91 L. Ed. 2d 202 (1986); Goldberg v. Meridor, 567 F.2d 209, 213 (2d Cir. 1978), cert. denied, 434 U.S. 1069 (1978); C. Wright & A. Miller, *Federal Practice and Procedure Section 2006*, at 35 (1970). This principle is particularly strong when (as here Mr. Jackson Section 1983 Civil Suit Action), constitutional and civil rights claims are at issue. Porter v. Califano, 592 F.2d 770, 778 (6th Cir. 1979); and Mabey v. Reagan, 537 F.2d 1036, 1050 (9th Cir. 1976) (emphasis added).

QUESTION NUMBER THREE:

Whether the Sixth Circuit abused its discretion by affirmance of the district court clearly erred by Dismissing Section 1983 Civil Suit Action as a genuine issue as to any material fact existed, thus, does this justify VACATING and REMANDING the Dismissal of Civil Rights Civil Suit and to set the matter for Trial ?

Appellant Jackson, asserts that the Sixth Circuit abused its discretion by affirmance of the district court clearly erred by the dismissing Section 1983 Civil Suit Action as a genuine issue as to any material fact existed in which entitled Mr. Jackson to proceed to Trial consistent with U.S. Supreme Court precedents.

Appellant Jackson, asserts that he also offers his own Affidavit to more accurately reflect the impact of Appellee Canady revoking Jackson's Probation and due to the Probation Violation now imposing **no tether and no earned early release**, thus, while in the Ingham County Jail on or about November of 2020, ICJ Officer Clint Strudwick placed his name in the computer and computed Jackson's Earned Early Release Date since he was given a Trustee Job at ICJ to result in his Release from Ingham County Jail for **December 26, 2020** (emphasis added). See Appendix G (Affidavit of Adrian M. Jackson dated Sunday, July 30, 2023). **The only reason that Appellant Jackson was not released on December 26, 2020, was for the UNLAWFUL PROBATION**

VIOLATION Amended Judgment of Commitment entered on October 13, 2020, in which specifically prohibited Mr. Jackson from receiving tether or earned early release, thus, as the result of the Appellees' all acted during the Original Sentencing and Probation Violation Hearing as if they did not know Appellee Canady sentence was UNLAWFUL supports the inference Appellant Jackson's Section 1983 Conspiracy Civil Suit claim that the Appellees' conspired to violate his constitutional rights in the matter herein. See Cameron v. Seitz, 38 F.3d 264, 271 (6th Cir. 1994); Archie v. Lanier, 95 F.3d 438, 441-42 (6th Cir. 1996); Harper v. Merckle, 638 F.2d 848, 859 (5th Cir. 1981). It follows that through the scope of Discovery, thus, Mr. Jackson could have obtained Interrogatories from Officer Strudwick to support his claim, thus, to deny Section 1983 Civil Suit absent Discovery amounts to an abuse of discretion in the case herein. See Tarleton v. Meharry Medical College, 717 F.2d 1523, 1533-35 (6th Cir. 1983) (summary judgment should not ordinarily be granted before discovery has been completed). This principle is particularly strong when constitutional and civil rights claims are at issue, see Porter v. Califano, 592 F.2d 770, 778 (6th Cir. 1979). Appellant Jackson, argues firmly that all Appellees' are civilly liable as the result of Appellee Canady acted in the face of clearly valid statutes or case law expressly depriving him of jurisdiction and authority to impose **more than (6) six months of imprisonment after**

imposing a one-year term of probation, see *People v. Dorsey*, 107 Mich. App. 789, 792 (Mich. Ct. App. 1981) (We recognize that in any case where probation is ordered, the court may require the probationer to spend up to six months in a local detention facility, either in one block of time, or at a fixed interval, at the direction of the court. MCL 771.3; MSA 28.1133), see *Rankin v. Howard*, 633 F.2d 844, 849 (9th Cir. 1980) (But when a judge knows that he lacks jurisdiction, or acts in the face of clearly valid statutes or case law expressly depriving him of jurisdiction, judicial immunity is lost.); *Rankin v. Howard*, 633 F.2d 844, 847-848 (9th Cir. 1980) (Rankin alleged that Judge Zeller agreed in advance with the others to rule favorably on the petition. We conclude that a judge's private, prior agreement to decide in favor of one party is not a judicial act. See also *Lopez v. Vanderwater*, 620 F.2d 1229, 1235-37 (7th Cir. 1980) (judge not immune for "prosecutorial" acts prior to biased decision). If the alleged agreement manifests Judge Zeller's participation in a conspiracy, then proof of the agreement could form the basis of liability whether or not he is immune from liability for subsequent judicial acts), thus, Appellee Canady lost his immunity by acting nonjudicially and in the clear absence of subject matter jurisdiction to conduct Probation Violation as contrary to the Sixth Circuit's Decision consistent with MCR 7.203 Jurisdiction of the Court of Appeals (A) **Appeal of Right**. The court has jurisdiction of an appeal

of right filed by an aggrieved party from the following:

(b) in a criminal case in which the conviction is based on a plea of guilty or nolo contendere;

Because Mr. Jackson had filed a timely Claim of Appeal after he was sentenced in the criminal cause of action consistent with MCR 7.208 Authority of Court or TribunalAppealed From

(A) Limitations. After a claim of appeal is filed or leave to appeal is granted, the trial court or tribunal may not set aside or amend the judgment or order appealed from except

- (1) by order of the Court of Appeals
- (2) by stipulation of the parties
- (3) after a decision on the merits in an action in which a preliminary injunction was granted, or
- (4) as otherwise provided by law.

In a criminal case, the filing of the claim of appeal does not preclude the trial court from granting a timely motion under subrule (B).

(B) Postjudgment Motions in Criminal Cases.

- (1) No later than 56 days after the commencement of the time for filing the defendant-appellant's brief as provided by MCR 7.212 (A) (1) (a) (iii), the defendant may file in the trial court a motion for a new trial, for judgment of acquittal, to withdraw a plea, or to correct an invalid sentence.

Because none of those exceptions existed in the case herein, thus, as the result of the Michigan case law clearly supports that Appellee Canady did not have subject-matter jurisdiction to conduct Probation Violation proceedings and immunity is lost in the case herein. See *People v. Brown*, 2023 Mich. App. LEXIS 3046, 2023 WL 3140124 (Mich. Ct. App., Apr. 27, 2023) (Here, defendant's appeal in Docket No. 360132 addressed only issues related to the restitution award imposed during defendant's June 2021 course of his case before the trial court relating to his sentencing after his probation violations, and this Court and the trial court were not exercising jurisdiction over the same aspects of the case.) (emphasis added). In the instant case, Appellant Jackson the sole basis for the claim of appeal filed was that Judge Canady imposed an "illegal" sentence by imposition of a term of Probation in which the Michigan Court of Appeals held to be **INVALID**, see Appendix H (Adrian M. Jackson's Michigan Court of Appeals Opinion dated May 7, 2021), **thus, as the appeal was likely to greatly alter the course of his case before the trial court relating to his sentencing after Jackson's alleged probation violation, and the Michigan Court of Appeals and Judge Canady were exercising jurisdiction over the same aspect of the case in which means that Appellee Canady did not have subject-matter jurisdiction in the matter herein.** See *People v. Brown*, 2023 Mich. App. LEXIS 3046; 2023

WL 3140124, * 16 (Mich. Ct. App. 2023).

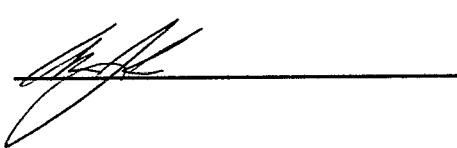
Appellant Jackson, states that regarding Appellee Finnerty that a non-judicial act consisted of the Section 1983 Civil Suit Conspiracy violation, thus, he does not have absolute immunity and is subject to liability in the situation herein. See *Mitchell v. Forsyth*, 472 U.S. 511, 105 S. Ct. 2806, 2813 (1985) (U.S. Attorney General not absolutely immune for unconstitutional conduct) (emphasis added).

Appellant Jackson, asserts that regarding Appellee Hess that a viable Section 1983 Conspiracy violation as to his constitutional rights were established and Mr. Hess is civilly liable in the case herein. See *Towers v. Glover*, 467 U.S. 914, 919-20 (1984) (appointed counsel may have acted under color of state law when he conspired with state officials to deprive client of constitutional rights) (emphasis added).

If the federal Judiciary System is to stand for **JUSTICE** than Adrian M. Jackson is entitled to be **GRANTED** Petition for Writ of Certiorari or a GVR, thus, the factual and legal errors rendered should be **CORRECTED** by this Honorable U.S. Supreme Court should not turn a blind eye at his plea for justice in the matter herein.

Respectfully submitted,

Date: 09/18/23



Mr. Adrian M. Jackson

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CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Doe". It is written in a cursive style and is positioned above a solid horizontal line.

Date: 09/18/2023