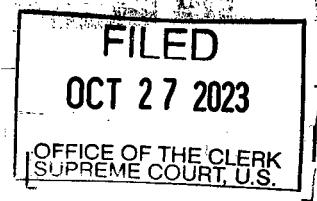


23-5922
No.

6
ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



EZENWA, MAXWELL CHIBUEZE — PETITIONER
(Your Name)

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

EZENWA, MAXWELL CHIBUEZE
(Your Name)

FEDERAL CORRECTIONAL COMPLEX, BML
(Address)

BEAUMONT, TEXAS 77710-6010
(City, State, Zip Code)

409-727-8187
(Phone Number)

QUESTION(S) PRESENTED

A warrantless arrest made on 07/06/2016, altered to 07/07/2016 by a Harris County Sheriff Sergeant who issued a "Pocket Warrant", trespassed movant's office, arrested movant, confiscated movant's office keys, removed \$13,026.00 in cold cash, 2,000 US First Class Postage Stamps worth .48 cents each, totalling \$9,600.00, an internet blue log book containing five open uncashed checks amounts to unreasonable search and seizure. Movant was charged for credit card fraud for accepting credit card payments at his business from customers. The government alleged fraud of \$75,000.00, set a bond of \$100 K at this time, later issued a superceding indictment for the same charges and set a second bond for \$100 K. These two separate charges were dismissed at the pretrial stages by Hon Judge Kelli Johnson of 178th Judicial District Court of Harris County. The same Superceding Indictment and disallowed court proceedings were later introduced by Ms Christine Jiadai LU, the pretrial assistant district attorney in Houston Federal Court. Movant proceeded to trial in Federal Court on November 2019 and was convicted in 2021.

QUESTION FOR THE SUPREME COURT : Is the "Pocket Warrant" used in a Federal prosecution in violation of the Fourth Amendment warrantless arrest, (2) Statute of limitation, (3) Double Jeopardy, (4) Violation of Eight Amendment, (5) Violation of the Fourteenth amendment ?.

Hon Judge Eskridge did not review the County Court documents because the prosecutor Ms Christine Jiadai LU refused to give the Hon. Judge Eskridge the county Court records thereby violated "Due Process of Law". The Hon. Judges ruling violated "Due Process" by including the "Fruits of the Poisonous Tree Doctrine". Advise all accordingly.

NO : 1

QUESTION(S) PRESENTED

Whether trial counsel was constitutionally ineffective for failing to investigate the pocket warrant and failure to identify, use the recorded office arrest exculpatory voice recording of a potential government agent Ms Sophia Curtis, as defense witness. Counsel's failure to address the mistakes in the Superceding Indictment, discuss, advice, object to the inaccuracies in the PSI and correct and make recommendations by objecting to those inaccuracies by the United States Probation Department.

NO 2 : Can a Federal Court ignore the finality of a state court judgment, accept a County Sheriff Pocket Warrant, use its perjured oaths or affirmations, in complaint and indictment aborted at the pretrial proceedings twice with high bail of \$100 k each time for a wire accusation of \$75 k, and allow a Federal agent to attest to the warrant self issued by a Sheriff Deputy instead of an authorized State Magistrate of Records. Is it a fraudulent legal process when Due processes are violated for law enforcement convenience and misconducts.

NO 3 : Can a citizen be tried with Police warrantless arrest, prosecutorial and Judicial misconducts where a Judge sealed exculpatory testimonies and witnesses for the defense coupled with arrest history that violated Fourth, Fifth, Sixth, Eight Amendments Rights of the United States Constitution.

NO 4 : If Attempt, Conspiracy and Fraud are used in Mail Fraud and Wire Fraud where there is no INTENT to defraud the United States, known or unknown business partners, CONVICTIONS should be based on proof, not inferences/ assumptions. The sealed testimonies amounts to the denial of right of CONFRONTATION and Equal Protection of the Laws.

QUESTION(S) PRESENTED

NO 5 : If a business can be singled out for prosecution of Credit card fraud for acceptance of payments for goods and services rendered and charged in a State Court, while other businesses that accepted the same credit cards were not charged. During pretrial level of the proceedings, the case was charged twice and dismissed twice and same case was changed to wire fraud and mail fraud by the same assistant district attorney who became an assistant United States Attorney that used the same witnesses and case summary that indicates no quid pro quo, unproven co conspirators to obtain conviction through Police, Prosecutorial , ineffective assistance of counsel and Judicial misconduct and malfeasance by violating all constitutional due processes like the Fourt Fifth, Sixth, Eight and Fourteenth Amendments of the United States CONSTITUTION.

NO 6 : Does a Federal Judge in a bench trial try a defendant by blocking and sealing all exculpating witnesses, testimonies and rejecting character references from professional friends who could have attested to defendants character especially as disciplined honest money services business owner that is trusted in the community. Hon. Judge Eskridge failed to understand the services and commissions involved in money honest services that there is no intent to scheme, obtain money and property by means of materially false and fraudulent pretenses, representations, promises and for using Postal Service for mailing that does not involve deceitful criminal payments to an innocent person or business. The learned Hon. Judge erred by convicting movant without reviewing the State Court records and turned around and accepted the fruits of the poisonous tree for conviction.

NO 7 :

QUESTION(S) PRESENTED

Prosecution entangled itself in fraud, deception, misrepresentation, dishonesty, bad faith decision, selective, vindictive prosecution with perjured oaths or affirmation was accepted and given to the grand jury, when perjured testimonies were known and allowed at all levels of the proceedings that were unconstitutional, unethical and violated the ethics of Department of Justice. Because prosecution participated in enforcing rules against the forbidden conducts by the employees of the DOJ, prosecution should be disciplined for violating these rules willingly with the understanding of punishing a citizen when all the due processes were violated... . Is the Prosecution authorized by his job discretion and by the Constitution to use perjured testimonies, suppress, alter evidence and encourage untruthful coerced, biased testimony from non business associates, unknown people paid to be untruthful, not named in the Superseding indictment and systematically culture them, deceive the Court with a guilty verdict.

NO 8 : Hon. Judge Charles Eskridge erred and violated rule 404(b) of the 2018 First Step Act and rule 609 (b), neglected the equal protection clause and due processes. It is a prejudicial abuse of discretion manifested in racism for the Hon. Judge to assume that black professionals cannot make decisions like his white counterparts, when the Hon. Judge rejected the professional opinions of two black agents by deception and accepted the untruthful perjured testimony of a whiteagent's false oath or affirmations with the due process violations. Hon. Judge Eskridge was so angry and biased that, he committed a Judicial Murder in this case, when he claimed that petitioner stole more than a

QUESTION(S) PRESENTED

million dollars. His Hon. committed clerical and arithmetic errors out of his hatred for Nigerians and his extreme dislike for the black race. These allegations are supported by the record. In the middle of the trial, his Hon. remanded petitioner to the custody of US Marshal against the objections of the defense team. This petitioner was on bond and never violated the conditions. Hon. Judge Eskridge never done this remand to white defendants or groups that appeared in his court. Your Hon. Judge Eskridge, you exhibited the proclivity for extremism when knowingly and willfully forced this petitioner into custody without me to set my house in order. There was no risk for you to do that and your Hon. Judge Eskridge, you violated the equal protection clause of the Fourteenth amendment of the United States Constitution. This beautiful adversarial system is based on being innocent until proven guilty, but in practise your Hon, you found me guilty to prove innocent. Your Hon. Judge Eskridge, review the records to see that you used inferences, assumptions, neglected the facts, the records and the law to convict an innocent man. This is an extreme miscarriage of JUSTICE STANDARD. May GOD help and bless all in the UNITED STATES. Redeem United States, from all their troubles.

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:

RELATED CASES

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE	
REASONS FOR GRANTING THE WRIT	
CONCLUSION.....	

INDEX TO APPENDICES

APPENDIX A : Houston federal court sentence and judgment with
Fifth Circuit judgment

APPENDIX B

APPENDIX C

APPENDIX D

APPENDIX E

APPENDIX F

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.

OPINIONS BELOW

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

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

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 5/24/2023 / 7-25-2023 / Sept 27, 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: _____, and a copy of the order denying rehearing appears at Appendix _____.
F

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_____.
F

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

For cases from **state courts**:

The date on which the highest state court decided my case was 11/09/2021. A copy of that decision appears at Appendix _____.
F

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.
F

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_____.
F

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

JURISDICTION : Article 111, Section 11 of the Constitution establishes the Jurisdiction (legal ability to hear a case) of the Supreme Court. The Court's task is to interpret the meaning of a law, to decide whether a law is relevant to a particular set of facts, or to rule on how a law should be applied three functions (1) Case deciding
(2) Administrative
(3) Regulatory

28 US Code 1257 : final Judgments or decrees rendered by the highest Court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of Certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any state is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or treaties or statutes of or any commission held or authority exercised under the United States. The Court handles issues, conflicts with a previous Supreme Court decision, or a decision which has departed from acceptable and usual course of judicial proceedings as to call for an exercise of the Supreme Court's supervisory powers. This petitioner's certiorari will show : (a) that petitioner has been deprived of a right under the Constitution, treaties or statutes of the United States and (b) that Petitioner has exhausted the state's remedies with regard to the Federal claim - ie is asking the Court to review a "Judgment...rendered by the highest Court of a State in which a decision (on the claim) could be had" as a right (28 USCS 1257 (a)). 28 USCS 1254 gives the Supreme Court Jurisdiction to review cases in Courts of Appeals. These provisions confer Jurisdiction to review decisions made by a District Court in a judicial capacity.

JURISDICTION : cases cited

Chase V Powell No 1:07 CV 929 S.D.Miss., Feb. 28, 2008 citing

Johnson V Grandy

Rooker V Fidelity Trust Co, No 295, DC of US District of Indiana

Dec., 10,1923.

DCB Court Ap V Feldman, No 81-1335, March 23,1983

Liedtke V State Bar of Texas, No

Exxon Mobil Corp V Saudi Basic Indus. Corp, No 03-1696 2005

Illinois Cent. R. Co V Guy, No 10-61006 Consolidated with No
11-60122, May 29,2012

Reed V Terrell, No 84-1010, May 6, 1985 US Court of Appeals
Fifth Circuit

Weekly V Murrow, No Fifth Circuit , 2000

United States V Singleton, No 16-31196 Summary Calender, Dec
27,2017

United States V Foster, No 15-14084 Jan 4, 2018 decided 11th
Circuit 2018

United States V Maxwell, No 07-11301 Eleventh Circuit Court
of Appeals

United States V Cooper No 17-11548, June 10, 2019,11th Cir.

Bogue V Faircloth Ag Florida, No 70-501-CIV-CF US District Court
for the Southern District of Florida, April 12, 1971,5th Circuit

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
United States V. Leonard, NO 21-13242	3
United States V. Davis, NO 85-4452	3
United States V. Cooper, NO 93-2633	4
Johnson V. United States, NO 138	4
Amaechi V. West, NO 00-1129	4
United States V. Edwards, NO 10-4256 4th Circuit	4
Payton V. New York, NO 78-5420	5
United States V. Carrion, NO 86-1268 5th Circuit	5
United States V. York, NO 77-5633	6
United States V. Partida, NO 03-40781 5th Circuit	6
Fisher V. United States, NO 02-5082	6
United States V. Reed, NO 83-1132	8
United States V. Clark, NO 31 F	8
Chambers V. United States, NO 4599 ; 4600	8
Van Riper V. United States, NOS 401-406	8
Robinson V. United States, NO 5665	9
Bowers V. United States, NO 2571	9
United States V. Robinson, NO 79-5203	10
Lemon V. United States, NO 16468	10
United States V. Brien, NO 79-1164 to 79-1168	10
Rudd V. United States, 2,875	10
Coleman V. United States, NO 12022	10
United States V. Foshee, NO 76-3435	11
Stunz V. United States, NO 8006	11
United States V. Goss, NO 80-1285	11
United States V. Martin-Trigona, NO 80-2428	11

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
United States V. Diamato, NO 93-1756 2nd Circuit	11
United States V. Melton, NO 81-2165, 81-2230	11
United States V. Gardner, NO 73-2683 5th Circuit	12
United States V. Asomani, NO 20-2842 8th Circuit	12
United States V. Abrams, NO 77-5107 5th Circuit	12
Weeks V. United States, NO 461, District Of Missouri	14
United States V. Massi, NO 12-5103, 5th Circuit	15

STATUTES AND RULES

Federal Rule Of Criminal Procedure 4 (a)	4
Federal Rule Of Criminal Procedure 16(a), 16(b)	
Federal Rule Of Evidence 902 (4)	1-3
18 USCS 1341 and 2	Page 11, Pages, 6,10
18 USCS 1343 and 1349	Pages 10 and 11
28 USCS 1251, 1254,1254, 1257	16
18 USCS 2235	12
Exclusionary Rule	14
512 Of Title 18 U.S.Code	2
513 or 512 Of Title 18 U.S.C.S. Code	1-3

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Police, Prosecution, Defense Counsels and Hon. Judge Eskridge violated the followings United States Constitutional provisions.

- (1) The Fourth Amendment - Trespass, warrantless arrest, Lack of reasonable probable cause, unreasonable search and seizure
- (2) The Fifth Amendment - Right of the defendant to remain silent (miranda warning)
- (3) The Sixth Amendment - Right to professional representation by Counsel. Violation of protection against double jeopardy
- (4) Eight Amendment - Excessive high bail posted twice in State Court pretrial and once in federal trial totalling three bails on one charge.
- (5) Fourteenth Amendment - Unconstitutional seizure of property without warrant.

OTHER STATUTORY PROVISIONS INVOLVED

MAIL FRAUD AND OTHER FRAUD OFFENSES

18 USC § 1341 and 2 Frauds and Swindles

18 USC § 1343 Fraud by Wire, Radio, or Television

18 USC § 1349 Attempt and Conspiracy

18 USC § 1341 Mail Fraud

18 USC § 1343 Wire Fraud

STATEMENT OF THE CASE

At approximately 9:09 am on 07/06/2016, five law enforcement agents from the harris county organized financial crimes taskforce arrived at defendant's office. About nine customers were waiting for transactions, a Nigerian registered Nurse, Ms Henrientta Davis, a Nigerian medical doctor and other professionals observed what happened during the interrogation and subsequent arrest. Detective Sgt Novitz of the harris county sheriffs department, did most of the talking, degrading statements that were embarrassing, harrassing and humiliating especially about defendant's national Origin (Nigerian). Detective Sgt Novitz, "We are here to pick the counterfeit money, arrest defendant and go down the road and arrest my fellow Nigerian criminals on Bissonnet street. Ms. Henrietta Davis and other customers asked defendant to call the Houston Police department. Sgt Novitz said, "that defendant is not a Bank to have access to a lot of cash money. Then, a lady agent that came with the arresting officers Ms. Sophia Curtis asked defendant to obey the officers, not to resist the arrest because she knows that the agents did not obtain a warrant, and does not have one; that they are prejudiced against defendant's national origin Nigerians with high cash transactions makes them crazy; that the officers cannot see a black man own business nor have access to money. Ms. Curtis, told defendant in the office while agent Shadowens was recording the conversation on tape, that she (agent Curtis) will testify or give a sworn testimony on defendant's behalf for the wrong and illegal arrest that is criminal in nature. Defendant requested the warrant and agent Shadowens refused and said, "they don't have a warrant and that he will still arrest defendant and he did. Agent Shadowens without reading the 'miranda warning', handcuffed defendant

, took defendant's office key and took defendant to a constables office on HWY 6 @ Bellaire Blvd, all these events happened on 07/06/2016 and not on 07/07/2016 as wrongfully alledged on the indictment. When we got to the Constables office Sgt. Novitz tried three times to obtain a warrant by telephone without success , Sgt Novitz called three assistant harris county district attorneys each one explained they cannot issue any warrant, since the suspect is in custody. Defendant heard theseconversations on main line speaker phone. Each ADA that denied the warrant explained that the newly elected DA, Ms Kim OGG instituted a new electronics system for warrants , to cut down abuse; but they promised that will be issued next day 07/07/2016. That's why the warrant was issued after 24 hours of defendants arrest.Another proof is on channel 13 news, that reported that the newly elected DA will not tolerate unguided issuing of warrants and fired thirty three (33) assistant DA's for abuse of discretion. The new DA fired the ADA that got defendant's case. The indictment was for \$75,000.00, but defendant was given excessive bail of \$100,000.00 that forced the night judge to question on 07/06/2016 to question why this defendant was given a very high bond. The night court officials on 07/06/2016 could not answer the question, is on record that the Judge on record indicated that is not fair to the defendant. Agent Shadowens came to my office three times before the arrest on 07/06/2016. Agent Shadowes came to my office three times in January, March and May of 2016, therefore; had more than enough time to have obtained a warrant instead of using a self issued 'pocket warrant' from a sheriff sergeant. Finally, after forty one (41) months of staying on bail and on pretrial Hon Judge Kelli Johnson of 178th Judicial District Court dismissed all

charges, the Hon Judge said ;that arresting officers are jokers and are not ready to show probable cause, the Judge wished defendant well and said again, do not come to this Court again and have a nice day.

Second arrest was in October 2019 at approximately 9:05am on my drive way. Defendants bond was set at \$200,000.00 and no warrant or miranda warning was read. Defendant was on home confinement for 24 months and in the middle of trial, was arrested in the Courtroom by the United States Marshalls because the Prosecutor alledged that a confidential informant alerted her that defendant will run after Court appearance that day. At the Bench Trial in Hon. Judge Charles Eskridge Courtroom, 915, the Judge found defendant guilty erroneously sent defendant to a detention facility called Joe Corley in Conroe. From there defendant was moved to Federal Prison Camp in Beaumont, Texas on 05/06/2022. This conviction is erroneous and illegal because no warrant was issued by a Judicial official. It was issued by Sergeant Novitz. There are errors in the indictment and information see United States V. Leonard, NO 21-13242 BB United States District Court of Appeals for the 11th Circuit Southern District of Florida. Judgment entered February 7, 2022. The State and Federal language shows prosecutorial misconduct, selective prosecutorial enforcement with discriminatory over reach of power, see United States V. Davis No 85-4452 United States Court of Appeals for the 5th Circuit for the Northern District of Mississippi, Judgment entered on April 22, 1986.(while factual misrepresentation by government agents may vitiate consent, no requirement that agents state every reason behind their investigation.

That defendant did not resist arrest is not equivalent to consent to search see United States V. Cooper, NO:93-2633, United States Court of Appeals for the Fifth Circuit, Judgment Affirmed on January 13, 1995. Arrest cannot be justified by evidence found see Johnson V. United States NO:138 Circuit court of Appeals for the Ninth Circuit, Reversed on the issue of negligence, Affirmed on the issue of right to maintenance and cure (Jackson, J) when right of privacy must reasonably yield to right of search is, as a rule, to be decided by a Judicial Officer, not a Policeman or government enforcement agent. Defendant was arrested on 07/06/2016 and not on 07/07/2016 as wrongfully alledged and submitted to the Judge. Search deemed highly intrusive without any apparent justification see Amaechi v West, NO: 00-1129, United States Court of Appeals for the Fourth Circuit, Affirmed and Remanded Judgment Decided January 9, 2001. Officer usuing a knife to remove plastic baggie containing contraband wastied to arrestees penis deemed unreasonable under Fourth Amendment. See United States V. Edwards NO:10-4256 Court of Appeals for the Fourth Circuit, decided December 29, 2011 Judgment Vacated and remanded.

Full search of digital cell phone data requires warrant see *Ripley v. California* U.S 373 (2014). Magistrate must determine sufficiency of showing of probable cause for arrest, Federal Rule of Criminal Procedure (4a). in challenging arrest and search, a Magistrate Judge has duty to investigate probable cause regardless of status of complainant. An indictment should be dismissed on act of false testimony presented to the grand jury, the defendant must show prejudice amounting to either proof that the grand jury's decision to indict was substantially influenced, by testimony which was in

appropriately before it. Movant's investigation determines that the Fourth Amendment Rights were violated. The Fourth Amendment forbids unreasonable searches and seizures, and requires probable cause for an arrest or for a search of a suspect's real or personal property. The Fourth Amendmend provides that no warrant shall issue but upon probable cause. When seeking a warrant, an officer must present sufficient facts to allow the Judicial to weigh the evidence. Warrantless, nonconsensual entry to make routine felony arrest is unconstitutional, see Payton V. New York NO:78-5420; 78-5421, Supreme Court of New York, Appellate Division, Second Department, Affirmed denial of suppression motion. Decided April 15, 1980 Judgment on Appeals, the United States Supreme Court Reversed and Remanded; See United States V. Carrion NO:86-1268 United States Court of Appeals for the Fifth Circuit, February 3, 1987 Judgment Affirmed and United States Supreme Court Reversed.. Under the Fourth Amendment, pursuit of a fleeing misdemeanor suspect does not always—that is, categorically—justify a warrantless entry into a home see Lange V California No.2018 SCOTUS June 23,2021, decided the same argument holds for United States V Cheng, United States District Court for the Southern District of Texas Houston No 4:20-CR-455 decided January 12, 2022.

RESPONSE TO 18 USCS 1349: Attempt and Conspiracy to Commit fraud and mail fraud. Attempt - There is no general Federal Statute defining the offense of attempt, United States V. York No.77-5633 United States Court of Appeals for the Fifth Circuit, Southern District of Florida Judgment affirmed August 23, 1978. Despite the absence of a comprehensive statutory definition of attempt, Federal Courts have uniformly adopted the standard set forth in 5.01 of the American law Institute's Model of Penal Code that the requisite elements of attempt are (1) an intent to engage in criminal conduct, and (2) conduct consisting a substantial step towards the commission of the substantive offense which strongly corroborates the actor's criminal intent.

In United States V. Partida, No:03-40781, Appeals from the United States District Court for the Southern District of Texas, Judgment affirmed September 10, 2004. See United States V.Anderson, No:11-5364 -CR, United States District Court for the Northern District of N.Y. Judgment Reversed and Remanded 2014. This defendant, never had the necessary criminal intent. The gist of the crime of conspiracy is the unlawful agreement. "Conspiracy", exists whenever there is a combination agreement, or understanding, tacit or otherwise, between two or more persons for purposes of committing unlawful acts. See, Fisher V. United States NO : 02-5082 United States Court of Federal Claims Federal circuit Judgment March 9,2005. Reversed and Remanded. The confederation must in and of itself be corrupt. This is implied in the meaning of the term "Conspiracy".

Under Mail Fraud Statute, even false representations or statements or omissions of material facts, do not amount to a fraud unless done with fraudulent intent. However, misleading or deceptive a plan may be, it is not fraudulent if it was devised or carried out in good

faith. An honest belief in the truth of the representations made by a defendant is a good defense, however inaccurate the statements may turn out to be. To conclude on this element, if you find that the defendant was not a knowing participant in the scheme or that the defendant lacked the specific intent to defraud, you find defendant not guilty. It is universally agreed that mail and wire fraud are specific intent crimes. Three government witnesses testified that there was no contact with this defendant, no phone calls, no emails or any records to show fraudulent intent to commit fraud. Defendant knowingly and willingly did not enter into conspiracy to defraud investors and since no communication of any sort indicates no meeting of mind to attempt or commit fraud conspiracy. The evidence showed that the Postal Inspectors intercepted defendant's company mail, kept it for eight days before returning it to defendant's office. Good question; why did postal inspectors release the mail- answer because it was not fraudulent. There was no discussion of fraud but compliance to a corporate pro forma invoice issued to my company by Asilarex group. Asilarex has been in on going business since 2017. There was no cover up and no fraudulent transactions. The government had the opportunity to have confiscated mail and did not do so. The government is partly responsible for the commission of fraud by entrapment. Defendant's money transfer business was registered under Maxi Motors, Transport and Travel Company. All transactions were cleared by the Bank, no information was fraudulent. Check my whats up messages it will confirm that Asilarex threatened my self and family because of the eight day delay in transaction. He went further to target my home for violence. defendant was forced to comply because the government by clearing or releasing the checks indicates he was not fraudulent. On the PSI page 17, it shows that \$60k was retrieved. Where is the

money. Defendant paid \$150 K to car companies on behalf of Asilarex and charged for shipping cost and money transfer commissions. With all these payments, it shows defendant as a VICTIM. The government investigators were not thorough and abused their discretion by going after defendant without a clear picture of all that happened. Asilarex was not charged with any crime or offense. Question is where the conspiracy. Arresting, prosecuting and convicting defendant did not solve the problem and we the victims knows that the principal actors are out there and might harm other on line lovers.

18 USCS 1349- CONSPIRACY :In prosecution for conspiracy to commit mail fraud, what the government must show is agreement to defraud plus knowledge that use of mail was reasonably foreseen. See, United States V. Reed, NO: 83-1132 United States Court of Appeals for the Sixth Circuit, Eastern District of Michigan, decided November 28, 1983, Judgment Affirmed.

Conspiracy to defraud individual, even through mails were used, did not fall within terms of conspiracy against United States, See United States V. Clark, NO:31F 710; 1887 United States District Court of Appeals for the Sixth Circuit, Eastern District of Michigan, Court of Appeals of the Sixth Circuit. Judgment, the Court discharged the defendant. No meeting or agreement was reached to circumvent the laws of United States or to defraud anybody. When scheme to defraud by use of mails was criminally participated in by more than one, it constituted in and of itself conspiracy. See Chambers V. United States NO:4599; NO:4600 United States District Court for Western District of Missouri, Judgment Affirmed October 30, 1916. See, Van Riper V. United States Circuit Court of Appeals NO:401; NO:402; NO:403; NO: 405; NO:406 United District Court, Southern District of N.Y., July 27, 1926. Judgment : reversed Conviction. See, Robinson V. United

States NO: 5665, United States Court of Appeals , Ninth Circuit, June 17, 1929. Judgment Affirmed.

Counts of Mail, Attempt and Conspiracies to commit fraud should be dismissed because evidence was sufficient to establish that defendant received payment on behalf of Asilarex for shipping goods and services. The government identified victims, admitted under oath that they never met defendant nor had any agreement nor direct business interest in Maxi Motors, Transport Company. These victims reached agreement with asilarex for business unknown to defendant. Asilarex did not discuss his business with defendant about the government identified victims. The government prosecuted defendant blindly and wrongly. The US government should track Asilarex group so that we will know the truth by tracking phone records, email and text messages. The government will confirm that Asilarex threatened my family in US and overseas when they promised to kidnap my family members when the postal inspectors kept his checks. This government should get the clean facts before erroneous judgment. Defendant will like to know the truth and see JUSTICE. There was no promise given to the government identified victims.

Defendant's detention papers has a date of offense as 01/25/2013. Under statute of limitations; if scheme or artifice was devised more than three years prior to return of indictment, but was in existence with defendant operating under it within three years, case was without statute of limitations. see Bowers V. United States NO: 2571 Court of Appeals, Ninth Circuit, Southern District of California. Judgment Affirmed September 4, 1917. The Federal Superceding indictment was in November, 2019.

Burden is on government to prove beyond reasonable doubt that defendant's had specific intent to defraud since proof of intent in Mail Fraud cases is paramount because good faith of defendant is ordinarily complete defense. See, United States V. Foshee NO:76-3435 5th Circuit, modified on other grounds, United States Court of Appeals 5th Circuit, Judgment March 10, 1978 Reversed and Remanded.

Even though representations made were false, defendant could not be guilty, if he believed them to be true when made as long as those representations did not fairly exceed what was believed to be actually true. See, Stunz V. United States NO:8006, Court of Appeals, Eighth Circuit for the Western District of Missouri, July 2, 1928 Judgment Affirmed.

Good faith is complete defense to charge of intent to defraud under 18 USCS 1341. See, United States V. Goss NO:80-1285 United States Court of Appeals 5th Circuit Unit A, decided July 6, 1981. Judgment Reversed and Remanded.

Good faith or absence of intent to defraud, is complete defense to charge of mail fraud. see, United States V. Martin-Trigona NO:80-2428 Court of Appeals 7th Circuit central District of Illinois Judgment Reversed and Remanded Decided July 16, 1982. Mail fraud cannot be charged against corporate agent who in good faith believes that his or her (otherwise legal) misleading or inaccurate account is in corporation's best interest. See, United States V. Diamato NO:93-1756 United States Court of Appeals for the 2nd Circuit, Eastern Division of New York. Decided October 31, 1994. The evidence of criminal intent was legally insufficient and we reverse.

Under 18USCS 1341, it is unnecessary that victim of scheme actually be defrauded or suffer loss. See, United States V. Melton NO:81-2165 ,81-2230 United States District Court for the Northern District of

Indiana, South Bend Division NO:81-CR-9-Allen Sharp Judge, United States Court of Appeals for the Seventh Circuit, Judgment Affirmed September 22, 1982.

Defense of Remoteness of mailing from scheme; Where defendant was convicted of six counts of mail fraud under 18 USCS 1342 connected with allege improper use of master credit card, and credit card misuse scheme established by evidence was remote from mailing, remoteness of associated mailing from scheme was as to prevent prosecution under 18 USCS 1341. See, United States V. Gardner NO:73-2683, United States Court of Appeals for the Fifth Circuit for the Middle District of Florida. Judgment Reversed on march 8, 1974.

Good faith defense: See, United States V. Asomani NO:20-2842 United States Court of Appeals for the Eight Circuit, Missouri, Affirmed August 4, 2021. The essence of a good faith defense is that one who acts with honest intentions cannot be convicted of a crime requiring fraudulent intent in mail fraud and wire fraud transactions. There is no Federal Statute that articulates how to adjudicate conspiracy where there exists no co-conspirators according to the trial records. A person cannot conspire against himself therefore you must dismiss charges and acquit defendant.

PERJURY : making false material declarations before grand jury is species of perjury. See, United States V. Abrams NO:77-5107 United States Court of Appeals for the Fifth Circuit for the Southern District of Florida, February 24, 1978 Judgment Affirmed in Part and Reversed in part.

18 USCS 2235 : search warrant procured maliciously day after arrest, "whoever maliciously and without probable cause, procures a search warrant to be executed, shall be fined under this title or imprisoned

not more than one year or both. On 07/06/2016, no judicial warrant was issued for the arrest of this movant. It was self issued by Sgt Novitz of the harris county sheriffs department and passed on to a United States agent Inspector Andrew Shadowens on 07/07/2016. Movants investigation revealed that it was an illegal 'pocket warrant', not authorized by a Judicial officer or a by a Judge / magistrate.

On 07/06/2016, agent Shadowens and deputy sheriff sgt Novitz were on a speaker phone in the Constables office on HWY 6 and Bellaire Blvd, in houston, when the law officers asked for a warrant. The law officers spoke with three assistant district attorneys, three of them said no to issunig a warrant, because ; the movant was already in law officers custody. The assistant DA's said that the new DA Ms Kim Ogg, established a new warrant issuance control system, which issueswarranta day before arrest. Movant heard the law officers telephone conversations on a speaker land phone where they used embarrassing, harrassing, intimi-dating, dehumanizing, threatening language that ridiculed movants person and national origin (Nigerian). Sgt Novitz on the tape arrest said, 'we will arrest you (movant) and go down the road and arrest your fellow Nigerians'. This statement is a racist intimidating talk. These conversations were on the arrest tape and was echoed by the 178th judicial district court Judge Hon. Kelli Johnson, who dismissed all charges for lack of probable cause. These officers tendered a warrant that they tagged to a retired harris county Judge Hon David Mendoza. This is against the law and unconstitutional. the beauty of America is that individuals are protected under the Constitution and it's amendments. The passage of the Fourteenth Amendment after the Civil War, that Rights protected under the 'Bill of Rights' became applicable to the States . The Bill of Rights, ~~is adopted at~~ is applicable

the same time as the "Constitution", protects individuals from the actions of the Federal government. For the United States Postal Inspectors conducted unlawful search, it is a violation of the Fourth Amendment. For the harris county detectives to conduct an unlawful search, it's a violation of the 'Fourteenth Amendment'. The Constitution does not protect individuals for the actions of individuals acting in their capacity. The law officers and the postal inspector violated the United States Constitution.

The physical incidents of arrest were merely gratuitous humiliations imposed by law officers who were at best, exercising extremely unlawful poor judgment. Defendants's claim to live free of pointless indignity and confinement clearly outweighs anything the government can raise against it specific to defendants case.

The "Exclusionary Rule", as it has come to be known, received the notable support of the "Supreme Court" in 1914, in Weeks Versus United States, NO:461 District Court of the United States for the western District of Missouri to review a conviction for the unlawful use of mails. Supreme Court Reporter 383-399 Court of Appeals Sixth Circuit. Judgment Reversed and Remanded for a new trial. The Court inthis case, firmly established the rule that evidence obtained by an unreasonable search and seizure would be inadmissible and could not be introduced at a subsequent trial.

The underlying premise of the exclusionary rule is that law enforcement officials will be more vigilant in honoring and respecting Fourth Amendment Rights based upon the fact that the fruits of the illegal conduct will be suppressed upon discovery of the impermissible police action. Thus, the exclusionary rule was judicially

created to serve two primary functions; to deter governmental misconduct, and to promote adherence to the safeguards encompassed in the Fourteenth Amendment, See United States V Massi, NO: 12-5103 United States Court Of Appeals for the Fifth Circuit, Western District of Texas. Judgment Affirmed August 1, 2014. The principle purpose of exclusionary rule is to deter future violations of police misconduct. This case shows an institutionalized racism, violations of Civil Rights of the United States Constitution; based also on national origin (Nigerian). It's a violation of the Fourth, Fifth, Sixth and the Fourteenth Amendments of the United States Constitution. All these violations fortunately were recorded by the law officers during the arrest on 07/06/2016. Unfortunately, at trial, the tape recording was altered in front of Hon Judge Eskridge by the Prosecutor who used inculpatory evidences and withheld exculpatory evidence, this is also a Constitutional Violation.

COLLATERAL ESTOPPEL DOCTRINE : THE DOUBLE JEOPARDY BAR - may preclude subsequent prosecution for a second offense arising out of the same transaction, if the verdict in the first case resolved an issue of fact that arises in the second. This doctrine of collateral estoppel is set forth in Ashe V. Swenson, No 57 United States Court of Appeals Eighth Circuit, April 6, 1970. The Supreme Court adopted the rule of collateral estoppel that where an issue of ultimate fact has once been determined by a valid and final judgment, that issue cannot again be litigated between the same parties in any future lawsuit. This clause was violated when the government had the opportunity to use the two pretrials as a dry run for the third, thus subjecting the defendant to the precise ordeal against which the clause intended to prevent.

Defense of conviction or acquittal of another; though criminal defendant's acquittal on conspiracy count necessitates acquittal for mail fraud and wire fraud perpetrated by co-conspirators in furtherance of conspiracy, such rule of vicarious liability is inappropriate where neither indictment, prosecutions election to rely on specific wire and mailing, nor district's court instruction to jury predicated defendant's liability upon wire and mail fraud committed by co-conspirator. See, United States V. Robinson NO:79-5203 United States Court of Appeal for the Eastern District of Michigan, Southern Division, decided June 9, 1981; Judgment Affirmed.

Defense of Credulity of Victims: in action under 18 USCS 1341, it is immaterial whether only gullible would have been deceived by scheme to defraud; 18 USCS 1341 protects naive as well as wordly wise. See, Lemon V United States NO: 16468 United States Court of Appeals for the Ninth Circuit, March 30, 1960, Judgment Affirmed.

In prosecution for violation of 18 USCS 1341 and 1343, it makes no difference whether victims of scheme are gullible or skeptical, dull or bright, and it is not ordinary prudence and comprehension. See, United States V. Brien NOS:79-1164 to 79-1168 decided February 26, 1980, Affirmed convictions.

Defense of Good faith : Honest intent; honest belief in representations made was good defense. Rudd V. United States NO: 2,875 Court of Appeals, Eight Circuit October 28, 1909. Judgment Reversed and Remanded for new trial.

Good faith of Defendant in Mail Fraud case is ordinarily complete defense. See, Coleman V. United States NO:12022 Court of Appeals for the Fifth Circuit, Houston, Texas, Reversed and Remanded. See, United States V. Corlin NO: 14806-Y April 27, 1942, Affirmed.

Appellant seek review from the United States Court of Appeals for the Fifth Circuit, which granted appeal for certiorari to United States Supreme Court for the conviction of Federal Mail Fraud, conspiracy to commit mail fraud, wire fraud and fraud against the United States. Appellant asserts that the use of the mails did not constitute a violation of the federal mail fraud statute, appellant was denied a fair trial, and a conspiracy was not supported by the evidence. Mailing did not qualify as mailings made for the purpose of executing a scheme to defraud as alleged in indictment but there was evidence from which a Judge might find that the accused had engaged in a conspiracy to commit mail fraud. As to the conspiracy, which rested solely on accepting credit cards from customers in the purchase of goods and services, the lower court erred in submitting verdict form where the bench trial Judge enhanced the elements of the conspiracies. There is no valid distinction to be drawn between those routine mailings which are required by law and those routine mailings, themselves intrinsically innocent, which are regularly employed to carry out a necessary or convenient procedure of a legitimate business enterprise. In either case the mailings themselves are not sufficiently closely related to the fraudulent scheme to support a mail fraud prosecution even though securing the funds received through some of them is the object of the scheme to defraud. See United States V Nat Tarnopol Nos. 76-1542, 76-1543, 76-1544, 76-1545 United States Court of Appeals for the third circuit, August 9, 1977. See Ciminelli V United States SCOTUS November 28, 2022 where the court held that the

the right to control theory could not form the basis for a conviction under the Federal fraud statutes. The theory could not form the basis for a conviction under the federal fraud statutes, which were limited in scope to the protection of property rights. Finally, the theory vastly expanded federal jurisdiction without statutory authorization. In sum, the wire fraud statute reached only traditional property interests. The wire fraud statute criminalizes schemes or artifices to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises. 18 U.S.C. § 1343. Although the statute is phrased in the disjunctive, the United States Supreme Court has consistently understood the money or property requirement to limit scheme or artifice to defraud element because the common understanding of the words to defraud when the statute was enacted referred to wronging one of his property rights. This understanding of the word defraud when the statute was enacted did not vest a general power in the Federal Government to enforce (its view of) integrity in broad swaths of state and local policymaking. Instead, these statutes protect defendant property rights only. Accordingly, the Government must prove not only that wire fraud defendants engaged in deception, but also that money or property was an object of their fraud.

Appellant requests certiorari to review a Federal Court of Appeals judgment, on interlocutory appeal, ordering that an action brought in a Federal District Court be dismissed, under the Rooker-Feldman doctrine, for lack of subject-matter jurisdiction, the United States Supreme Court reversed the Court of Appeals judgment and remanded the case for further proceedings, as the Supreme Court concluded that the Court of Appeals had (1) misperceived the right to control theory could not form the basis for a conviction under the Federal fraud statutes. The theory could not form the basis for a conviction under the federal fraud statutes, which were limited in scope to the protection of property rights. Finally, the theory vastly expanded federal jurisdiction without statutory authorization. In sum, the wire fraud statute reached only traditional property interests. The wire fraud statute criminalizes schemes or artifices to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises. 18 U.S.C. § 1343. Although the statute is phrased in the disjunctive, the United States Supreme Court has consistently understood the money or property requirement to limit scheme or artifice to defraud element because the common understanding of the words to defraud when the statute was enacted referred to wronging one of his property rights. This understanding of the word defraud when the statute was enacted did not vest a general power in the Federal Government to enforce (its view of) integrity in broad swaths of state and local policymaking. Instead, these statutes protect defendant property rights only. Accordingly, the Government must prove not only that wire fraud defendants engaged in deception, but also that money or property was an object of their fraud.

Appellant requests certiorari to review a Federal Court of Appeals judgment, on interlocutory appeal, ordering that an action brought in a Federal District Court be dismissed, under the Rooker-Feldman doctrine, for lack of subject-matter jurisdiction, the United States Supreme Court reversed the Court of Appeals judgment and remanded the case for further proceedings, as the Supreme Court concluded that the Court of Appeals had (1) misperceived

-eved the narrow ground occupied by Rooker-Feldman, and (2)consequently erred in ordering the dismissal. Federal district courts, Rooker recognized, are empowered to exercise only original , not appellate,jurisdictions. Because congress has empowered this court alone to exercise appellate authority to reverse or modify a state court judgment, the Court affirmed a decree dismissing the federal suit for lack of jurisdiction. Recalling Rooker, the Supreme court observed that the District Court lacked authority to review a final judicial determination of a State judgment because such review can be obtained on the Supreme Court see Liedtke V State Bar of Texas No 92-2623,summer calender April 8,1994 Fifth Circuit; see Reed V terrell No 84-1010, May 6,1985 Fifth Circuit.

A scheme to defraud requires proof of a material misrepresentation, or the omission or concealment of a material fact calculated to deceive another to get money or property. A jury may infer an intent to defraud from the defendants conduct if the government shows that the defendant believed that he could deceive the person to whom he made the material misrepresentation out of money or property of same value, see United States V Maxwell No 07-11301 United States Court of Appeals for the EleventhCir., see United States V Foster No 15-14084jan. 4,2018 United States of Appeals for the Eleventh Circuit, seeUnited States V Singleton No 16-31196 Summary Calendar Dec. 27,2017 United States Court of Appeals for the Fifth Circuit.

Appellant challenges the right-to-control theory, arguing that the right to control ones assets is not property for purposes of the wire fraud statute since federal courts held the fraud statutes reached such intangible interests as the right to honest

services. As developed by the Second Circuit, the theory holds that, since a defining feature of most property is the right to control the asset in question, the property interests protected by the wire fraud statute include the interest of a victim in controlling his or her own assets. See United States V Lebedev Nos 17-3691-CR (L), 17-3758%CR(Con), 17-3808-CR (Con) United States Court of Appeals for the Second Circuit, Dec. 15, 2018. The right-to-control theory vastly expands federal jurisdiction without statutory authorization . Because the theory treats mere information as the protected interest, almost any deceptive act could be criminal. See e.g. United States V Viloski No 14-4176CR, United States Court of Appeals for the Second Circuit (affirming right-to-control conviction based on an employees undisclosed control of interest). The theory thus makes a federal crime of an almost limitless variety of deceptive actions traditionally left to state contract and tort law-in flat contradiction with our caution that, absent a clear STATEMENT by Congress, Courts should not read the mail and wire fraud statutes to place under federal supritendence a vast array of conduct traditionally policed by the States. Appellate courts are not permitted to affirm convictions on any theory they please simply because the facts necessary to support the theory were presented to jury. The right-to-control theory is invalid under the federal fraud statutes.

18 U.S.C.S §1341 should be carefully and strictly construed in order to avoid extension beyond limits intended by Congress ,this construction is especially appropriate where it reaches

conduct which States should appropriately control and which they can control, effectively. United States V Kalem Nos 23165, 23166, September 22, 1969, United States V maze, No 72-1168 United States District Court for Western District of Kentucky, Jan. 8, 1974. Court of Appeals for the Sixth Circuit Reversed conviction No 72-1007, October 4, 1972.

Since 18 U.S.C.S. §1341 & 1343, limit relevant use of mails or wires as case may be, to use for purpose of executing scheme to defraud, they are in pari materia, and are therefore, to be given similar construction and accordingly cases construing mail fraud statute are applicable to wire fraud statute. United States V Tarnopol Nos 76-1542, 76-1543, 76-1544, 76-1545 United States District Court of New Jersey, United States Court of Appeals for the Third Circuit, May 5, 1977 Argued, Griffin V. United States No 90-6352 ,Decided Dec. 3, 1991. Decision : Due process held not to require that general guilty verdict on federal multiple object conspiracy charge be set aside if evidence is inadequate to support conviction as to one object. 1341 is written to apply to any scheme to defraud in which mails are used, it is to be read expansively to effectuate that purpose United States V. Cady No 77-1460 United States District Court of Appeals for the Eighth Circuit, Eastern District of Missouri. 1341 includes broad prescription of behavior for purposes of protecting society, it should be carefully and strictly construed in order to avoid extension beyond limits intended by Congress. United States V Louderman No 77-1129, 77-1128, United States District Court of Appeals for the Ninth Circuit for the Central District of California.

Same as in United States V Mandel, No 77-2487 to 77-2492, 78-5022, , United States Court of Appeals for the Fourth Circuit July 20, 1979. Mail fraud statute should be carefully and strictly-construed in order to avoid extension beyond limits intended by CONGRESS. United States V. Mirabile No 73 CR 210 W-4, United States District Court for the Western District of Missouri, Western Division, January 24, 1974. To deprive victim of money or property, mail fraud statute requires allegation that defendant obtained money or property as well. United States V. Alsugair No 02-395, United States District Court for the District of New Jersey, April 8, 2003.

Appellant want this case to be reversed and remanded because of the disagreement among the circuits as to what mail and wire fraud elements are acceptable for conviction. Appellant want the United States Supreme Court to set the standard making it mandatory as the Constitution has established that no warrant shall issue but upon the issuance of a warrant supported by probable cause. The district court erred by denying defendants motion to suppress evidence derived from search of appellants records and by holding that good faith exception to the exclusionary rule would apply under United States Constitution Amendment IV, because the affidavits supporting the records warranted for 11916 Bissonnet Street did not establish a proper nexus between the alleged credit card fraud activity, records of the same, and that address. Appellant requested the FOIA from the agencies involved, they seemed to deny the request, the FBOP indicates that appellant is still under investigation. Therefor defendants suppression motion should be reversed, this conviction vacated and remanded. The district court accepted a state case

and proceeded to trial based on the state arrest, facts, evidence and police malfeasance. The Hon. Judge used the fruit of the poisonous tree doctrine, any evidence which police derivatively obtained from an unconstitutional search and seizure is inadmissible. By extension, information gained by law enforcement officer-s during an illegal search cannot be used in a derivative manner to obtain other evidence. But the doctrine does not apply if the connection between the lawless conduct of the police and the discovery of the challenged evidence has become so attenuated as to dissipate the taint.

Appellant adopts the Rooker-Feldman doctrine which bars district courts from reviewing state-court decisions. It applies to cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments. Unlike many doctrines, it is not prudential-it is based explicitly on the statutory limitations of the federal district court to modify or overturn an injurious state court judgment should a claim be dismissed under Rooker-Feldman; district courts do not lose subject matter jurisdiction over a claim simply because a party attempts to litigate in federal court a matter previously litigated in state court. To be sure, other doctrines of preclusion, abstention, or comity may be still bar a plaintiff's claim-but-they are separate and distinct from Rooker-feldman's jurisdictional prohibition on appellate review of state court decisions in federal district court. See Target media partners v. Specialty MKTG Corp No 16-10141 United States Court of Appeals for the Eleventh circuit.

Movant invokes the res judicata doctrine that bars the parties to a prior action from relitigating the same causes of action that were, or could have been, raised in that prior action, if that action resulted in a final judgment on the merits. Res judicata applies not only to issues that were litigated, but also to those that should have been but were not. The bar applies where four prerequisites are met; (1) the prior decision was rendered by a court of competent jurisdiction; (2) there was a final judgment on the merits; (3) both cases involve the same parties ; and (4) both cases involve the same causes of action. Dismissal of a complaint with prejudice satisfies the requirement that there be a final judgment on the merits.

Hon Judge Charles Eskridge erred by violating Rule 609 and the Erie doctrine that agreed that a federal court applies state law when asked to give preclusive effect to a state court judgment. This Hon. Judge as the fact finder misled the Fifth Circuit by proceeding to trial with a reasonable provision of probable cause that violated all the due processes of law in contrvention of the constitution of the United States of America especially a warrantless trespass arrest with confiscation of cold cash and other properties. The brady violation by the prosecution, the coerced perjured testimonies which prosecution knew were false resulted in manifest injustice.

Based on the above constitutional violations, fruits of the poisonous tree doctrine and under the Rooker-Felman doctrines, federal Courts cannot review or reject state court judgments rendered before the district court litigation began. The scope of the doctrine is narrow, confined to cases brought by state-court losers complaining of injuries caused by state-court judgm-

-ents rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments. Evidence obtained as the result of an unreasonable search and seizure by state officers cannot be used against defendant in federal court, see, Elkins V. United States (1960). The purpose of the exclusionary rule is to deter constitutional violations, see United States V. Leon (1984), it applies to verbal statements obtained because of official misconduct as well as to the more traditional seizure of physical evidence. See United States V. Yousif (8th Circuit, 2002), because any statements as well as the evidence seized were obtained as a result of illegal detention, they are tainted and must be suppressed as fruit of an unlawful search and seizure. Therefore, defendant's motion to suppress evidence and statement should have been granted. The district court erred in failing to suppress evidence obtained by illegal search and seizure and in allowing the admission of such evidence on the trial, see Lustig V. United States No 9191 United States Court of Appeals for the third circuit, June 27, 1949. Overturn the sentence and judgment of Fifth Circuit in the interest of JUSTICE.

REASONS FOR GRANTING THE PETITION

The government was unable to prove conspiracy and all charges as alleged on the indictment. The District Court committed reversible error when it ruled against the Supreme Courts precedents and the United States Constitution. This conviction was rendered by deception that involves, Police, Prosecutorial and Judicial malfeasance. Police made a warrantless arrest with unreasonable searches and seizures in violation of the Fourth Amendment of the United States Constitution when they confiscated cash \$13,026.00 and 2,000 US Postage .48 cents totalling \$9,600.00 and other property not listed on Police manifest.

No 2 : Police and Prosecution obtained conviction by use of coerced confession that was altered on the arrest tape recording in the presence of Hon. Judge Eskridge who blindly either out malice and racism did not stop their behavior, encouraged it when Prosecution brought in people unknown and never met movant and admitted their falsity to obtain conviction. This is like how Eve deceived Adam in the garden of Eden. Its a concomitant reality.

No 3 : The lies in the District Court conviction was rendered because of the violation of the privilege against self incrimination in violation of the Fifth Amendment Rights of criminal defendants.

No 4 : This trial and conviction was obtained by the unconstitutional failure of the Prosecution to disclose evidence favorable to the defendant.

No 5 : This conviction was obtained by a violation of the protection against double jeopardy a Sixth Amendment Right violation.

REASONS FOR GRANTING THE PETITION

No 6 : A conviction obtained by action of a grand or petit jury which was unconstitutionally selected and inpaneled.

No 7 : Eighth Amendment Rights violation by imposing high bail twice for \$100 K twice on a charge of \$75 K alleged credit card fraud. Had pretrials twice and case was dismissed twice in 178th Judicial District Court of Harris County.

No 8 : District Court neglected the Fourteenth Amendment and violated the Equal Protection of all people especially Nigerians.

No 9 : The District Courts rejection of the State Courts dismissal orders and ruled opposite it thereby enjoyed supervisory authority against County Court.

No 10 : Movant will show that the decision of the lower court may be erroneous, but the national importance of having the Supreme Court decide the question involved

No 11 : Movant will show that the Court that decided my case is in conflict with the decision of another appellate court.

No 12 : The importance of the case not only to me but to others similarly situated and the way the decision of the lower court in my case was erroneous.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Max Kzenwa

Date: October 4th, 2023