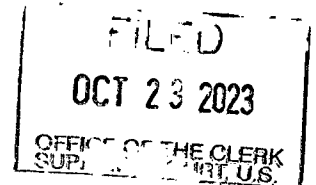


No 23-5931

ORIGINAL

IN THE SUPREME COURT OF THE UNITED STATES

DONALD LEE KISSNER,
Petitioner,
Vs.



OFFICER JOSEPH MICHAEL ORR, et al,
Defendants.

On Petition for writ of certiorari to the
United States COURT OF APPEALS for the
Sixth Circuit

PETITION FOR WRIT OF CERTIORARI

DONALD LEE KISSNER #383562
Petitioner In Pro-Se
Macomb Corr/ Fac
34625 26-Mile Rd
Lexington Twp. MI 48048
Date, 10-23-23

ALL DEFENDANTS NAMES

Officer JOSEPH MICHAEL ORR,
Defendant.

Officer Luke Rogers,
Defendant.

APA CHRISTOPHER G. BROWN,
Defendant.

QUESTIONS PRESENTED

- I. Did the Sixth circuit united states court of Appeals commit clear error when it affirmed the motion to Dismiss?
- II. Did the sixth circuit united states court of Appeals commit clear error when stating that Mr. Kissner did not show Deliberate Indifference to serious medical needs when he was not in custody?
- III. Did the Defendants open the Door to Challenge the unreasonable seizure of Mr. Kissner when they swear he was a pretrial detainee -- Arrestee?
- IV. Did the courts abuse their Discretion when committing clearly erroneous findings of facts and law in Denying Mr. Kissner Relief from Judgment pursuant to Fed. R. Civ. P 60(b) et seq?

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REASONS FOR GRANTING THE WRIT

The court should Grant certiorari to Clarify the proper terms of unreasonable Seizure, Deliberate Indifference -- whether it applies to this situation, Relief from Judgment under Fed. R. Civ. P 60(b) et seq, The proper scope of the above 20,31

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Mr. Kissner respectfully request the Issuance of a writ of certiorari to review the Judgment of the United States Court of Appeals for the Sixth Circuit, and Eastern District of Michigan.

DECISION BELOW

Kissner vs. Orr, et al, 2023 U.S App. Lexis 26886 (Reh. En Banc. Denied); Kissner vs. Orr, et al, 2023 U.S App. Lexis 23274; Kissner vs. Orr, et al, 2022 U.S Dist. Lexis 208745; Kissner vs. Orr, et al, 2021 U.S Dist. Lexis 242741; Kissner vs. Orr, et al, 2021 U.S Dist. Lexis 244110; Kissner vs. Orr, et al, 2021 U.S Dist. Lexis 252109.

JURISDICTION

The Sixth Circuit entered its judgment on Oct. 10, 2023. The court's jurisdiction is invoked pursuant to 28 U.S.C. §

FEDERAL RULE INVOLVED

Federal Rule civil Procedure 60(b) provides:

Gronds for relief from a final judgment, order, or proceeding. on motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

(1). Mistake, inadvertance, surprise, or excusable neglect;

(2). newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(e);

(3). Fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;

(4). The judgment is void;

(5). The judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable....;

(6) Any other reason that justifies relief.

STATEMENT OF THE CASE

On August 20, 2020 Petitioner Donald L. Kissner (hereinafter Mr. Kissner) was drugged by Shannon Lynn Boudro at 106 W. John St, in Durand, MI. Mr. Kissner became mentally ill and ended up suicidal to which he began covering himself with lighter fluid and gasoline in preparation to set himself on fire to commit suicide.

Shannon L. Boudro then called 911 for help with a person trying to commit suicide. The unknown 911 dispatcher (who is represented by Assistant Prosecuting Attorney Christopher G. Brown, who is one of the highest law enforcement officer of Shiawassee County Michigan) sent Defendants officer

Joseph Michael Orr, and Officer Luke Rogers to the scene.

The Defendants Orr and Rogers arrived 106 W. John St in a minute from the call. see APPENDIXS- J, and L. They found Mr. Kissner almost naked smelling of these Flammable Chemicals smoking a cigarette. The Defendants immediately understood the risk to all.

The Defendants handcuffed Mr. Kissner and placed him in a patrol car for his safety the Defendants said. see APPENDIXS- J, and L. The Defendants then left Mr. Kissner alone in the back of the patrol car for an hour and 45 minutes accorded to Sierra L. Oski, and Susan L. Margoul. The Defendants did not send for EMS/EMTS or Fire and Rescue after they confirmed Mr. Kissner's attempts.

Defendant Christopher G. Brown failed to dispatch EMS/EMTS or Fire and Rescue

to the scene of a person trying to set himself on fire. Defendants Orr and Rogers the failed to call for EMS/EMTs to treat Mr. Kissner once they confirmed that he was suicidal trying to kill himself, saying he wanted to die, and covered in flammable chemicals. Mr. Kissner had acted with whole hearted intent to kill himself.

The Defendants claim that they did not know of the risk that by not washing off Mr. Kissner that he would end up with chemical burns on his body, they and court says that Mr. Kissner never said anything to the Defendants about any discomfort from the chemicals on him.

The Magistrate Judge Morris said: "It would not have been objectively obvious to these officers that there was a

medical need to wash off the chemicals."
See APPENDIX-D.

"NOW COMMON SENSE SAYS": If a person
"gets any chemicals such as gasoline or
lighter fluid in say your eyes, you wash
out your eyes immediately" (Emphasis
Added). It is impossible to believe that
the Defendants did not know the risk.

The Defendants after handcuffing and
placing Mr. Kissner in the patrol car began
an investigation. It is not understood why
the Defendants did that as at that point
the Defendants were "FIRST RESPONDERS,"
to come help with a mentally ill person
trying to set himself on fire. Why they
changed their role has never been
explained but they did and thereby
abandoned their role of protecting Mr.
Kissner that night on August 20, 2020.

The Defendants failed to call for proper help as they could not provide it themselves as seen. After the unknown investigation the Defendants began the transport to the Shiawassee county jail. "THIS IS WHERE IT IS MORE CONFUSING," The Defendants give three different statements on when they say they told Mr. Kisser he was under warrantless arrest, when they gave him his Miranda rights, when weed was found. See APPENDIXS - J, L, and N.

Now Defendant Orr's testimony under oath in APPENDIX - K. Conflicts with the investigation information in APPENDIX - I. To which conflict with APPENDIXS - J, L, and N.

These documents in which one was under oath just don't cut the mustard as they say.

IN APPENDIX-J which is Officer Joseph Michael Orr's "Official Police Report which is an Official Proceeding". He states that the lighter was on the hood of the truck and that hospital staff found a bag of weed, that after Mr. Kissner "made more" statements of wanting to hurt himself on the way to jail they then decided to take him to the hospital and that at the hospital he gave Mr. Kissner his Miranda's, and then told Mr. Kissner that he was under arrest, but then released Mr. Kissner.

IN APPENDIX-L, Defendant Officer Joseph Michael Orr, testified under oath that Mr. Kissner was under arrest well stopped at/for a train in Durand where he gave Mr. Kissner his Miranda rights, and that well on the way to the jail,

jail staff started questioning about Mr. Kissner, and demanded medical test, and/or cleared by hospital before he can come into jail.

In APPENDIX - I, The Defendants claim that they took away a lighter and cigarette from Mr. Kissner when they arrived. That they took Mr. Kissner to the hospital in which they arrived at 22:22 which is well after 20:43, that the chemical burns were because the hospital did not immediately clean up Mr. Kissner. This is highly funny because they did not was off Mr. Kissner at all for the hour and forty-five minutes that they had him handcuffed in a patrol car.

The hospital staff have said that

were under the clear understanding that the Defendants had washed off Mr. Kissner on scene.

These three documents and the clear information between them conflict with each other and raise clear questions: "WHY DO THE DEFENDANTS KEEP CHANGING THEIR STORIES"? What truly happened that night in August of 2020. Several people say that the Defendants failures that night caused physical and mental injuries.

Now Mr. Kissner was drugged by Shannon L. Boudro on August 20, 2020 around 20:40 hours, which caused Mr. Kissner to end up almost naked covering himself with flammable chemicals with

the whole hearted intent to set himself on fire "There is 'NO' dispute about the facts", who was and is "clearly mentally ill to which again there is 'NO' dispute to these facts", That Mr. Kissner was wrongfully seized by the Defendants for an hour and forty-five minutes is disputed by the Defendants, That it was the hospital's fault for the injuries the disputed it was in fact Defendants fault, That there is "NO" dispute that Shannon L. Boudro drugged Mr. Kissner has not been disputed or that because she drugged Mr. Kissner that all acts by Mr. Kissner "were not at all" his fault.

The Defendants have attempted to cover up their actions or the lack

thereof that night by claiming that Mr. Kissner was under warrantless arrest and has not shown deliberate indifference to serious medical needs.

The Defendants however clearly committed "Fraud" upon the court. This is because under Michigan law and some decisions by this court Mr. Kissner was seized in violation of his Fourth Amendment rights, Mich. Const. of 1963, art I, § 11.

This is because under statutory law the Defendants had to take Mr. Kissner before a magistrate upon a warrantless arrest. see APPENDIXES - KK, LL, MM, and U.

The Defendants "could not" arrested Mr. Kissner without a warrant as

they say that they released Mr. Kissner later that night." THIS HOWEVER COULD NOT HAVE HAPPENED BY LAW! The law gives jurisdiction to conduct warrantless arrest but may not release once an arrest is made without warrant.

The Defendants cannot under the law say that they have the jurisdiction to release Mr. Kissner arrested without a warrant without taken him before a Magistrate Judge for a probable cause hearing within 48 hours of the warrantless arrest which is "MANDATED" by the Fourth, and the Fourteenth Amendment, Mich. Const. of 1963, art 1, §§ 11, 17.

The Defendants claim that their

entitled to "Qualified Immunity" and the lower courts agreed without proper review of the law, they say that Mr. Kissner did not show the required deliberate indifference to serious medical needs, however the Defendants nor courts showed why or how Mr. Kissner's arrest was legal; in other words "LEGALLY UNDER ARREST THAT NIGHT"; this because he was not truly under arrest he was not "LEGALLY A PRETRIAL DETAINEE" and those who say that he has to show Deliberate Indifference is clearly erroneous.

I. The Defendants and Courts are clearly erroneous when claiming that Mr. Kissner needed to show and/or failed to show deliberate indifference to serious medical needs as he was not nor could be a pretrial detainee or arrestee.

Defendants claim that Mr. Kissner was a pretrial detainee - arrestee. This is clearly a lie and fraud upon the court.

The constitution of both the U.S and Michigan have standards for warrantless arrest, but more so, Michigan has both statutory and court rules of standards for warrantless arrest as well. see APPENDIX S - V, W, X, Z, DD, EE, FF, GG, HH, II, KK, LL, and MM.

These mandate are required by the Constitution, statutory, and court rules for such an arrest without warrant.

The Defendants under the laws above "COULD NOT UNDER THOSE AUTHORITIES RELEASE MR. KISSNER BEFORE TAKING HIM BEFORE A MAGISTRATE JUDGE".

Therefore, it can only be seen that Mr. Kissner was illegally seized under the law and he was injured well illegally seized by the Defendants which means the Defendants violated Mr. Kissner's constitutional, statutory rights by their actions.

II. The Defendants and courts clearly Errored when claiming that Mr. Kissner's Request for Relief from Judgment did not Relieve his Inability to File a proper objection to the Magistrate Report and Recommendation.

Mr. Kissner is a Pro Se Complaint who has "NO" Education in the law, Has "NO" Highschool Diploma or GED, Mr. Kissner is "Severely Dyslexic with Auditorial processing Disorder"; Mr. Kissner has serious mental health issues, i.e., "PTSD, Bipolar Disorder, Personality Disorder, Antisocial Disorder, Anxiety Disorder, Psychopathic Behavior, Sociopathic Behavior, and Highly suicidal in which he has attempted suicide 21 - times in his life."

Mr. Kissner has attempted suicide 21-times in his 42 years of life. This means that have his life he has tried to end his life. The first time Mr. Kissner attempted suicide he was Ten years old when he Shot himself in the head. The above shows and there can be no dispute that Mr. Kissner is an "American with Disabilities".
28 U.S.C. § 12101.

Mr. Kissner did his best with "NO" help, no education, no law library to file an Objection to the Magistrate's Report and Recommendation of August 31, 2021. Mr. Kissner had filed grievances in the Shawwassee county jail for NO legal materials.

Mr. Kissner on Oct. 5, 2021 was taken to R, G and C from that day to April of 2022. Mr. Kissner had NO law library because of COVID-19 outbreak. Mr. Kissner filed for Relief from Judgment. See APPENDIXES - C, H, and I.

III. Did the Defendants as "First Responders" fail to seek Immediate Medical care for Mr. Kissner who was covered in flammable chemicals trying to set himself on fire.

NOW "NO ONE" disputes that Defendant 911 dispatcher -- APA Christopher G. Brown failed to send the "Proper First Responders" i.e., EMS/EMTS and Fire & Rescue. This is clearly erroneous as the "CALL FOR HELP" was because "someone was covering himself with Flammable Chemicals saying that he was going to set himself on fire.

These facts were confirmed by Defendants Officer Joseph Michael Orr, and Officer Luke Rogers. These two Defendants then failed to request EMS/EMTS when they confirmed that he was in fact covered in flammable chemicals threatening to kill himself.

Did these Defendants further fail to seek immediate medical help for a mentally ill person, furthermore did

They fail to wash Mr. Kissner off, who was covered in flammable chemicals. Could Mr. Kissner who was "clearly" mentally ill trying to kill himself able to inform the Defendants of any discomfort from the chemicals on him? This being because he was completely psychic at that point.

The statements by the Defendants and the Magistrate Judge Patricia T. Morris belief that Mr. Kissner was competent to inform anyone of discomfort is idiotic. See APPENDIXES - E, and N, clinically diagnosed.

IV. Did the Defendants violate Mr. Kissner's constitutional rights to be free from illegal seizure in clear violation of Fourteenth Amendment, Mich. const. of 1963, Art 1, § 11;

The Defendants claim that they informed Mr. Kissner that he was under arrest and gave him Miranda warnings. But there are three different stories on when this happened, see APPENDIXS - J, L, and N. Now if they, the Defendants did "Truely" inform Mr. Kissner he was under arrest, Mr. Kissner did not mentally understand it, But as the Defendants claim, Mr. Kissner was under arrest, this would "an arrest without a warrant," this means under "Hospital" rules the "officer must stay with his prisoner," This did not happen, Further, "No person" arrested without a warrant can legally be released before going in front of a Magistrate for a probable cause hearing within 48 hours.

REASONS FOR GRANTING THE WRIT

The court should Grant Certiorari to Clarify the proper terms of unreasonable seizure, Deliberate Indifferent to serious medical needs -- whether it applies to this situation, and Relief from Judgment under Fed. R. Civ. P. 60(b) et seq, The proper scope of them.

The Defendants APA Brown received a call for help but only dispatched Defendants officer Orr and Officer Rogers to a person who was covering himself with flammable chemicals in clear intent and preparation to light himself on fire. The Defendants confirmed this situation and later identified that Mr. Kissner smelled of flammable chemicals moreso that he was smoking

a cigarette. The Defendants immediately realized the danger and handcuffed Mr. Kissner and secured him in a patrol car unattended to, to conduct an investigation. see APPENDIXS - E, F, G, H, I, J, and L.

Mr. Kissner was "seized" by the Defendant Defendants at that point. see e.g., California vs. Hodari D., 499 U.S. 621, 626 (1991); United States vs. Martin, 399 F.3d 750, 752 (6th. cir. 2005). Mr. Kissner was seized for an hour and 45 minutes in a patrol car and two hours before leaving Mr. Kissner at the hospital. The whole supposedly under warrantless arrest. see APPENDIXS - J, L, and N.

If the Defendants statements are true that Mr. Kissner was under warrantless arrest, then they failed to secure him well at the hospital, failed to file a proper felony

complaints, failed to seek a proper probable cause hearing within 48 hours and to move for a warrant or endorse the complaint. see APPENDIX - U, V, W, X, Y, Z, AA, BB, CC, DD, EE, FF, GG, HH, II, JJ, KK, LL, MM, and QQ.

A complaint is a written accusation that a name and described person has committed a specified criminal offense. The complaint must include the substance of the accusation against the accused and the name and statutory citation of the offense. Mich. Ct. R 6.101(A). see APPENDIX - V.

The Prosecution must approve the complaint in writing. Mich. Ct. R 6.101(C). The only exception to this requirement is the rare instance when a private citizen files the complaint alone with security for costs. Mich. Ct. R 6.101(C); Mich. Compiled L 764.1(1); People vs. Joker, 63 Mich. App 421, 427-428 (1975). see APPENDIX - V, and EE.

"Both the Prosecution and the court are involved in the issuing of an arrest warrant in Michigan. The first step in obtaining an arrest warrant is the filing of a complaint." Mich. Ct. R. 6.101, and 6.102. See APPENDIX-V and W.

Judge or District Court Magistrate finding of reasonable or probable cause; basis of findings; basis of contents of affidavit. Mich. comp. L 780.653. See APPENDIX-DD.

The Fourth Amendment prohibits against unreasonable searches and seizures, not warrantless ones. *Graves vs. Mahoning Cty.*, 821 F.3d 772, 775 (6th. Cir. 2016). One more reason that the Fourth Amendment requires that a prompt Judicial determination of probable cause, (generally within 48 hours), after warrantless arrest. *Graves vs. Mahoning Cty.*, 821 F.3d 772, 778 (6th. Cir. 2016), see also *Peet vs. City of Detroit*, 502 F.3d 557, 563-564 (6th.

Cir. 2007); Fox vs. Desoto, 489 F.3d 227, 236 (6th Cir. 2007) (quoting Brineger vs. United States, 338 U.S. 160, 175-176 (1949)).

The Sixth Circuit United States Court of Appeals has found that an officer cannot arrest a person pursuant to the "Bare-allegation", of one party. Parsons vs. City of Pontiac, 533 F.3d 492, 500-501 (6th Cir. 2008). See also People vs. Kelly, 231 Mich App 627, 633-634 (1998); Brown vs. Illinois, 422 U.S. 590, 592 (1975).

The police may conduct a limited investigatory detention of someone, falling short of arrest, if they reasonably suspect a person committed a crime. See Terry vs. Ohio, 392 U.S. 1 (1968); United States vs. Hurst, 228 F.3d 757, 757 (6th Cir. 2000); United States vs. Wilson, 506 F.3d 488, 492 (6th Cir. 2007).

The Defendants swear up and down that they formally arrested Mr. Krissner without a warrant on bare allegations

the night of August 20, 2020. If that is true as they say, "THEN UNDER WHAT AUTHORITIES OF LAW DID THEY USE TO RELEASE MR. KISSNER WITHOUT TAKEN HIM BEFORE A MAGISTRATE." SEE APPENDIX-J, L, V, DD, EE, HH, II, KK, LL, and MM.

The law does allow for warrantless arrest, BUT MANDATES THAT A PERSON ARRESTED WITHOUT A WARRANT BE TAKEN BEFORE A MAGISTRATE." MICH. COMP. L. 764.13, 15.

They said Mr. Kissner was under arrest without a warrant, but they did not take him before a magistrate at anytime, NO, NO They say they released him to the hospital This is untrue as "NO ONE" at the hospital had "statutory" authority to take or hold a person under warrantless arrest. Furthermore why would the Prosecutor's office need to move for an arrest warrant? The law must be followed, the Defendants cannot

Say someone is or was under warrantless arrest when the mandate absolutely was not followed.

In *Dent vs. West Virginia*, 129 U.S. 114, 123 (1889), The court said:

"We think a person's liberty is equally protected, even when the liberty itself is a statutory creation of the state. The touchstone of Due process is protection of the individual against arbitrary action of government!"

The Defendants claim that they're entitled to Qualified Immunity as Mr. Kissner was under warrantless arrest which means that he would have to show deliberate indifference to serious medical needs. see APPENDIXS - A, B, C, D, E, F, G, H, and I, The Defendants attempt to write or rewrite the language of the statutes for warrantless arrest. see APPENDIXS - J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, and Z. This is clearly erroneous as it violates

Mich. Const. of 1963, art III, § 7, and art IV, § 1.

Thus, can only be seen as "Fraud upon the court, and perjury. see *Napue vs. Illinois*, 360 U.S. 264, 269 (1959). The question that needs to be answered at this time is in what court do the Defendants wish to admit this fraud and perjury, the state court, or Federal Court?

On the night of August 20, 2020, Mr. Kissner was drugged and became suicidal, The Defendants were sent to protect Mr. Kissner from killing himself, The Defendants failed to request the help from EMS/EMTs, The further failed to wash Mr. Kissner off "claiming they did not know of a risk to clean off the flammable chemicals, but did know of the risk of him smoking a cigarette, well covered in flammable chemicals.

The Defendants abandoned their neglect duty to protect Mr. Kissner when they finally decided to do a so called investigation into

possible charges.

They violated Mr. Kissner's Fourth, Fifth, Sixth, Eighth, Thirteenth, and Fourteenth Amendments; Mich. Const. of 1963; art I, §§ 2, 11, 15, 17, and 20, art III, § 7, art IV, §§ 1, 57, art XI, § 1.

Mr. Kissner was diagnosed that night by Dr. Jeremy Zarski and Probate Court for the County of Shiawassee that Mr. Kissner was mentally ill. See APPENDIXES - N, O, P, R, and SS. The Defendants "ATTEMPT TO SAY" that they handled the situation that night properly. But if that's true, then how did they fail at so many things that night? They completely abandoned their duty of care.

Mich. Comp. L. 330.1400(g), provides:

"'Mental Illness' means a 'substantial disorder of thought' or mood that 'significantly impairs judgment, behavior, capacity to recognize reality', or ability to cope with the ordinary demands of life." (Emphasis Added).

Mich. Comp. L 330.1401(a), provides:

"An individual who has mental illness, and who as a result of that mental illness can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure himself or herself, or another individual, and who has engaged in an act or acts or made significant threats that one substantially supportive of the expectation".

See APPENDIXS-N, RR, and SS.

"Blackstone wrote: 'that one who becomes mad' after the commission of an offense should not be arraigned for it, 'Because he is not able to Plead to it with that advice and caution that he ought'. Similarly, if he 'because mad after pleading, he should not be tried, 'for how can he make his defense?'. 4 W. Blackstone, Commentaries *24. see Drope vs. Missouri, 420 U.S. 162, 171 (1975); Youtsey vs. United States, 97 F. 937, 940-946 (CA 6, 1899).

In the case at hand, Mr. Kissner was "Mad" and this was why there was a call for help to which the Defendants failed to help, but instead only cared to find charges to arrest Mr. Kissner on. See APPENDIX- J, L, N, O, P, Q, R, RR, and SS.

See other cases on "Mental Illness," Jackson vs. Indiana, 406 U.S. 715 (1972); Johnigan vs. Elo, 207 F. Supp. 2d 599 (E.D. Mich. 2002); State vs. Mic Nichols, 154 N.E. 2d 125 (Ohio. 2020); In re Snyder, 422 P.3d 85 (Kan. 2018); Commonwealth vs. Andrews, 158 A.3d 1260 (Pa. Sup. 2017); State vs. Roe, 846 N.W. 2d 707 (N.D. 2014); State vs. Clifton, 315 P.3d 694 (Alaska. 2013); People vs. Williams, 288 Mich App 67 (2010); People vs. Urdiales, 871 N.E. 2d 669 Ill. 2000; Finger vs. State, 27 P.3d 66 (Nev. Supr. 2001); State vs. Neely, 819 P.2d 249 (N.M. Supr. 1991); Sanders vs. State, 585 A.2d 1107 (Del. 1990); Perreira vs. State, 768 P.2d 1198 (Colo. Supr. 1989); Daniels vs. State, 538 A.2d 1104 Del. 1988; People vs. Blue, 428 Mich 684 (1987); Spivey vs. State, 319 S.E. 2d 420 (Geo. 1984); People vs. Orr, 469 N.E. 2d

434 (Ill. 1984); State vs. Krol, 344 A.2d 289 (N.J. Supr. 1975).

It would be clearly idiotic for anyone to believe that Mr. Kissner at any point in time after being drugged on the night of August 20, 2020 could understand anything that happened. see APPENDIX N, and RR. See the language of Mich. comp. L 330.1400(g).

"NO ONE" can say without a doubt that Mr. Kissner knew the need to protect himself or the need for help. This is a material fact. see APPENDIXS - J, L, N, and RR.

The genuine fact here is the Defendants failed to use "Due Diligance" in their actions on August 20, 2020. "Just think had Mr. Kissner actually lit himself on fire he would be Dead because "NO" Fire & Rescue was sent to the scene".

Furthermore, he would have never ended up with chemical burns had Fire & Rescue been sent because they would have had the common sense to wash off

the flammable chemicals on Mr. Kissner.

Now the critical failures by the Defendants that night could very well have costs the life of Mr. Kissner and maybe other things. The Defendants "Do not dispute these facts at all." NO, NO, They actually lie -- perjury and fraud upon the courts by saying Mr. Kissner was under warrantless arrest and therefore needs to show deliberate indifference to serious medical needs.

Qualified Immunity Shields government officials from civil damages liability unless the officials violated a statutory or constitutional right that was clearly established at the time of the challenged conduct. *Reichle vs. Howard*, 132 S.Ct 2088, 2093 (2012). However, Mr. Kissner states that he was illegally -- unreasonable seized by the Defendants, denied immediate medical care by the Defendants as first

Responders who abandoned their responsibility that night. see e.g., *Pegram vs. Herditch*, 530 U.S. 211 (2000); *Baker vs. McCollon*, 443 U.S. 137 (1979) (Standard of Care). see also *suiter* filed *Marbury vs. Madison*, 5 U.S. 137, 163-165 (1803).

Mr. Kissner is entitled to reissuance of judgment and ability to file a proper objection on magistrates R & R pursuant to *Tanner vs. Yukins*, 867 F.3d 661, 671 (6th. cir. 2017), *reaff'd Tanner vs. Yukins*, 776 F.3d 434, 446 (6th. cir. 2015). see also *Davis vs. United States*, 2021 U.S. Dist. Lexis 108939 *3-8; *Hernandez vs. Simmons*, 2019 U.S. Dist. Lexis 228922 *5-12; *Carter vs. Anderson*, 585 F.3d 1007 (6th. cir. 2009). Now it is idiotic to think that Mr. Kissner had any control over (a) the Shiawassee County jail having a law library for inmates to use, (b) The Director Heidi E. Washington ordering "COVID-19 lockdown because of COVID-19 outbreak in the MDOC. This went on from Dec. of 2021 to April of 2022. See APPENDIXS- UU, VV, WW, XX, and YY. Mr. Kissner could not in anyway have any "control" of what the Prisons do or how they run.

Now in Mr. Kissner's complaint against the Defendants Mr. Kissner "Demanded a Jury Trial" which is Guaranteed to him by the U.S Constitution.

"The seventh Amendment provides:

'In suits at common law, where the value in controversy shall exceed Twenty dollars, the right of Trial by Jury shall be preserved'."

See also Mich. Const. of 1963, art 1, § 14; Haywood vs. Drown, 556 U.S 729 (2009); Adickes vs. S. H. Kress & Co., 398 U.S 144 (1970); Leary vs. Daeschner, 349 F.3d 888, 909-910 (6th. cir. 2003).

"NO" Statute can override constitutional rights, Therefore, The lower courts erred in saying it does.

The U.S District Court erred in its ruling on Mr. Kissner's "Motion for Relief from Judgment" pursuant to Fed. R. Civ. P 60(b)(et seq), The sixth circuit U.S court of Appeals erred in failing to correct the District courts ruling. The

courts abused their Discretions when its ruling were based on clearly erroneous findings of facts, and law applied. see e.g., Ortiz vs. City of Chicago, 656 F.3d 523, 537 (7th Cir. 2012); Buck vs. Davis, 580 U.S. 100 (2012); Yeschick vs. Mineta, 675 F.3d 622, 628 (6th Cir. 2012); Johnson vs. Bell, 605 F.3d 333, 339 (6th Cir. 2010); United States vs. Hardin, 481 F.3d 924, 926 (6th Cir. 2007); United States vs. Carter, 463 F.3d 526, 528 (6th Cir. 2006); Hood vs. Hood, 59 F.3d 40, 42 (6th Cir. 1995); First Tect. Safety Sys. Inc. vs. Depinet, 11 F.3d 641, 647 (6th Cir. 1993); Liljeberg vs. Health Serv's. Acquisition Corp., 486 U.S. 847, 863-864 (1988).

In this case, the Defendants were First Responders who failed to properly conduct care for Mr. Kissner, abandoned their duty of care in clear attempt to find charges they could place on Mr. Kissner who was mentally ill and has no understanding of what happened that night. The Defendants claim that they

are entitled to Qualified Immunity for that night because Mr. Kissner was supposedly under warrantless arrest which means he was a Pretrial detainee or Arrestee but Mr. Kissner was released by the Defendants without ever following the law. The Defendants could not release Mr. Kissner if he was truly under warrantless arrest.

Mr. Kissner is a pro se Plaintiff-Petitioner and as such his pleadings are held to a less stringent standard than those prepared by an attorney. *Urbina vs. Thoms*, 270 F.3d 292, 295 (6th Cir. 2001) (quoting *Cruz vs. Beto*, 405 U.S. 319 (1972); *Haines vs. Kerner*, 404 U.S. 519 (1972)). The true words that the Defendants wish to hide is clearly seen. see APPENDIX - T.

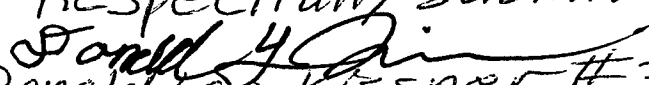
REASONS FOR GRANTING THE WRIT.

The court should Grant certiorari to clarify the proper terms of unreasonable seizure, deliberate indifference to serious medical needs, and whether it applies to the matter at hand, and Relief from Judgment under Fed. R. Civ. P. 60(b) et seq, The proper scope of the above.

CONCLUSION

Mr. Kissner respectfully request that this Court issue a writ of certiorari. "Native Americans have said, Those who lie and hurt the Natives will fail in their life at everything they do." I prayer for help.

Date. 10-23-23

Respectfully submitted

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