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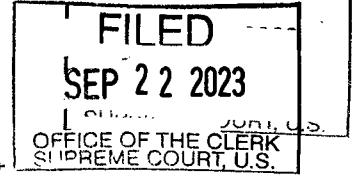
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ORIGINAL

CASE NO. 23-1187

IN THE SUPREME COURT OF THE UNITED STATES

GREGORY IFESINACHI EZEANI, Plaintiff - Appellant



V.

William Anderson

Warden Essex county Corrections

V.

CFG Health Systems LLC

RESPONDENT

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATE
COURT OF APPEALS FOR THE 3rd CIRCUIT

PETITION FOR WRIT OF CERTIORARI

Mr. GREGORY IFESINACHI EZEANI

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Plaintiff/Appellant

CIVIL LAWSUIT ON 4th, 5th, 8th and 14th AMENDMENT CONSTITUTIONAL RIGHT

CASE

QUESTION PRESENTED

Briefly, the plaintiff who is a native and citizen of Nigeria arrived in United states from Canada for engineering graduate studies. The plaintiff is a doctorate degree student who works at Essex County college located in New Jersey as adjunct professor starting from 2017 to 2019 before DHS/ICE unlawfully broke into the plaintiff residence with a gun pointing on the plaintiff to surrender his international Nigeria travelling passport. The plaintiff was arrested under gun duress from his house then transported to DHS/ICE office in Newark where he was charged with falsified immigration charge that is not true and this falsification of charge has been judged and determine in third circuit court appeal court in a case of Gregory Ezeani vs Jimenez et al. Case no: 22-3182(3rd cir.2023). The plaintiff was moved to Essex County correction jail for removal proceedings. The Essex County correction officer interviewed the pro se to determine his detention classification then the pro se explained to the officer that he is an adjunct professor teaching at Essex County college business school and a Doctorate degree student who never committed no crime for over 10 years living in United State. The Essex County correction officer said to the pro se that he does not believe him and made the decision to put the pro se in a cell meant for criminals. The pro se never committed any crime so cell detention is not DHS/ICE designated area for immigration federal prisoners who never committed crime. The pro se stayed in a cell for months and got infected with irreparable diabetes disease resulting from induced stress of the cell **(See Exhibit 1 showing where the pro se was locked which is a cell that is not the designated**

DHS/ICE area for federal prisoner who have not committed crime). The pro se came to the Essex County jail with no sickness but good health because he was diagnosed at Essex County correction during time of jail admission with no sickness when he arrived at the jail on May 28th, 2019. On September 16, 2019, the pro se felt diabetes sickness and was shackled up and transported to Rutgers emergency hospital. Moreover, after the emergency room treatment of diabetes resulted from high blood sugar, the Rutgers university doctor advised the plaintiff that his health was on a danger of irreparable diabetes risk of losing all his body functional parts and possible death if proper immediate care is not taken. The doctor at Rutgers university emergency hospital prepared a medical treatment plan for the pro se that will last for the rest of the plaintiff life and made immediate follow up of pro se to a diabetes specialist doctor in Rutgers university medical hospital. The doctor during medical explanation of pro se medical treatment plan with the pro se stated that the pro se will require a regular diabetic doctor treatment for other body treatment such as kidney, heart etc., A specialist foot doctor treatment plan annually and A specialist eye doctor treatment plan annually so that the pro se will not lose his body relevant functional parts. The doctor issued a medical doctor treatment plan starting with two days return to a diabetes doctor visit to continue treatment follow up. The pro se was shackled and transported to Essex County correction facility then on arrival, Essex County correction officer requested that the pro se must submit his original medical report from Rutgers University emergency hospital. The pro se refused but a couple of officers overpowered the pro se and confiscated the pro se original medical report from Rutgers university emergency hospital. Immediately after the pro se medical record confiscation, the pro se was directed to see the Nurse of CFG health systems who was contracted by Essex County correction to

treat federal prisoners at the facility. The Nurse of CFG health system said to the pro se that the facility is not going to use the medical doctor treatment plan issued by Rutgers emergency hospital doctor treatment plan which is described on the pro se original medical record from Rutgers emergency hospital, rather the facility will use insulin and will also not honor the scheduled of two days diabetes doctor follow up from Rutgers university emergency hospital. The plaintiff was denied medical doctor medical treatment plan from Rutgers university hospital since 2019 to this date and alternative was not provided by the CFGH as required by law. The pro se becomes very vulnerable to covid 19 death then he was released by DHS/ICE on 24th March 2020 without no medical doctor treatment plan. The CFG health facility went on and deleted all the pro se medical doctor diabetes medical treatment plan that require a yearly eye specialist doctor, A foot specialist doctor and all body diabetic doctor so that the facility will not have any legal liability of treatment of the Pro se diabetes disease treatment plan that will run for the rest of the plaintiff life on earth based on medical doctor treatment plan from Rutgers university emergency treatment hospital. The facility issued the pro se a fake medical report that deleted all the medical diabetes treatment plan after permanently confiscating the pro se original medical doctor report, and provide the pro se with one bottle of insulin to replace the doctor medical treatment that will last for the rest of pro se life on earth which is clear maliciousness and criminal medical malpractice that amount to medical wickedness to kill a federal prisoner to exonerate the defendant from financial health responsibility of treating a federal prisoner for irreparable diabetes injury inflicted on the pro se by the defendant. **(See exhibit 2 showing one bottle of insulin given to pro see as recommended by CFGH Nurse during the time of release to replace medical doctor treatment plan of special eye doctor and**

foot doctor along with whole diabetic doctor treatment). The pro se came out of jail and start feeling so sick then went to Rutgers university emergency hospital and requested for his medical record to be able to get at least prescription medication because his life is filled with diabetes pain and the fake report issued by CFG health system have deleted original doctor medical treatment plan from Rutgers university emergency hospital as if the pro se is no longer having diabetes treatment plan. The plaintiff filed a lawsuit against William Anderson of Essex County correction on March 6th, 2021, for unlawful medical malpractice and seeks for lifetime compensation to support pro se medical doctor treatment plan of irreparable diabetes disease inflicted on the pro se by the defendants that will last for the rest of pro se life on earth. The defendant William Anderson of Essex County corrections went on and filed another lawsuit against CFG health systems seeking for financial contribution stating that portion of the pro se claim was caused by the sub-contractor "(CFG health systems LLC) of Essex County jail Facility. Moreover, during the time the case is coming to an end in April 2022. The defendant could not find his way to cheat with the lady magistrate judge appointed by the district court then the district court judge appointed a new magistrate judge who work for Justice department for over 8 years before becoming appointed as a magistrate judge in a case that involve justice department contractors (Essex County correction jail facility and CFG health system facility). The New magistrate judge waited for the case to end its cycle on about early 5th April,2022 as scheduled by the former lady magistrate judge. The new magistrate judge schedules a conference on 8th of April 2022 calling on both the pro se and the defendants for a voluntary meeting to resolve the case (See **Exhibit 4 showing magistrate order for a conference on 8th April 2022**). Both the pro se and two defendants voluntarily honored and attended the conference meeting. Moreover,

during the meeting the third-party defendant (CFG Health system) requested that the defendant would like to depose the pro se for the third time and nonparties in the case. The pro se opposed the request and informed the new magistrate judge that this is a delay strategy by the third-party defendant because the defendant is using irrelevance to delay time because the defendant has no evidence to refute the verifiable cell detention that cause diabetes to the plaintiff irreparable diabetes which can be viewed from the pro se original medical records. Also, the defendant never refutes the clear fact that the facility deleted pro se medical record and gave fake medical record after refused to give back pro se his original Rutgers university medical record during the time of release which is a medical malpractice to help permanently delete the plaintiff medical doctor treatment plan from Rutgers university. The pro se further informed that one of the non- party Angelina Okwuego was a friend that visited pro se while he was in Essex county jail and put money in his jail commissary account when he was in Essex County correction jail and the second non- party was nurse practitioner that used original Rutgers medical report that the pro se obtain from Rutgers university emergency hospital after he was released to extend at least medication at the peak of covid 19 to sustain the pro se from death while waiting for a doctor diabetes treatment. Therefore, the defendant has no case to argue but a delay strategy. The magistrate judge now reach agreement between the pro se and the defendant that the defendant will file time extension showing cause to depose the pro se for the third time along with the nonparties, and the pro se will respond to the court why the deposition must not be allowed and why the pro se consider it as a delay strategy used by the defendant then court will review it and make decision. The defendant (CFG Health system) went on and filed a motion to dismiss the pro se entire medical malpractice lawsuit for failure to prosecute his

case without filing a motion for time extension to depose the pro se as he requested and as agreed on 8th April, 2022 conference so pro se will oppose the motion because the case have completed its cycle so any motion for a relief require time extension under Rule 26 (See **Exhibit 4B of the third-party defendant motion for dismissal instead of time extension to depose the pro se by showing cause as agreed on 8th April 2022 which violates court contractual agreement**). The pro se responded to the defendant's motion for dismissal stating that the defendant breached the agreement because he failed to file time extension to show cause as he requested and agreed on 8th April 2022 conference so that the pro se will file opposition motion. Moreover, the pro se also argues that there is no failure to prosecute his case against the defendant because the pro se never refuses to follow any court orders so the motion to dismiss does not fulfil Rule of dismissal under federal civil proceeding requirement. The new magistrate judge appointed by the judge that replaced former lady magistrate discovered that the defendant (CFG health system) cannot dismiss the case using failure of pro se to prosecute his case against the defendant then went on and granted the defendant deposition relief to depose the pro se for the third time and the non-parties without the defendant filing application for time extension by showing cause as agreed on 8th April, 2023 conference so that the pro se will have opportunity to respond because the third party defendant have nothing to depose the pro se for the third time in this case rather than time delay to kill the pro se so that the facility will not treat the pro se of irreparable diabetes disease inflicted on the pro se when he was detained at Essex county jail as a DHS/ICE immigration federal prisoner. The pro se filed motion for the magistrate judge to recuse himself from the case for breach of contract and acting as a lawyer of the defendant (CFG health systems LLC) by granting deposition relief without defendant filing

time extension to show cause to depose the pro se for the third time and the nonparties as agreed on April 8th, 2022 conference so that the plaintiff will have opportunity to oppose the motion. The defendant without application schedule to depose one of the non - party (Angelina Okwuego) and the pro se filed motion to stop the defendant because of no application for time extension as agreed on 8th April 2022 because the magistrate judge is acting as the lawyer of the defendant which violates Rule 26 because the case cycle have been completed so any relief must file application (**See Exhibit 5 showing pro se motion to stop the defendant from deposition of non-party without application for time extension by showing cause as agreed on 8th April, 2022**). The nonparty Angelina okwuego filed motion stating that there is no need for her deposition or to produce any document of all her jail visit as requested by the defendant attorney because she has nothing to do with medical malpractice action against the defendant not to treat the pro se for irreparable diabetes injury inflicted on the pro se and she does not have record of her jail visit that is control by Essex County correction facility who have the record of her visits. The magistrate judge issued an order compelling the non-party to appear for the deposition or else she will face consequences. The non -party Angelina Okwuego appealed to the magistrate judge order in third circuit court of appeal against magistrate judge order compelling her to appear for a deposition. The pro se file a motion to third circuit court appeal asking for third circuit to dismiss magistrate judge order because the magistrate judge breach the agreement of the 8th of April, 2022 conference where all parties agreed that the defendant must file application for time extension to show cause to depose the pro se for the third time and non-party because the case have completed its cycle and the defendant never file any motion for time extension to depose as agreed. The pro se argued that the

magistrate judge cannot be the lawyer of the defendant and the defendant violated Rule 7 of federal civil procedure by wrongful request for non-party deposition activity that requires the defendant to file an appropriate time extension application before any deposition relief will be granted to the defendant. **(See exhibit 6 showing where the third circuit court dismiss magistrate judge order for the nonparty (Angelina okwuego) because there is no consent of the parties and directed the district court Judge to determine the final decision).** The pro se filed recusal affidavit requesting for recusal of the magistrate judge by the district judge on the grounds of constitutional due process violation of breach of April 8th, 2022, conference agreement and acting as the lawyer of the defendant by granting deposition relief to depose the pro se and the non-party without defendant filing time extension to show cause with the court as agreed on April 8th, 2022 so the pro se will oppose the motion. The district judge decided on a pro se recusal motion by directing the magistrate judge that he appointed to replace the lady magistrate to make decision of his recusal by himself which violates due process right of the pro se. The magistrate judge made the decision to refuse to recuse himself without justification and the pro se filed complain to the judge to have oversight because the new magistrate judge that he appointed refused to recuse himself without justification. The district court judge decided that the court lacks jurisdiction to remove the magistrate judge so nothing can be done which is clear due process right violation because the previous lady magistrate judge appointed by district court was removed by the district judge who has no affiliation with justice department but because the defendant cannot cheat his way to dismiss the case. Moreover, the third-party defendant' s dismissal motion to dismiss the entire case of the pro se was denied by the district judge in November 2022 because there is no evidence of pro se failure to prosecute

his case against the defendant and the defendant was a third party who lacks legal jurisdiction to dismiss the case. Therefore, the defendant has no further case as a matter of law and federal constitution. The third-party defendant CFGH went on to forge material document using the name of New Jersey district court to issue a fake subpoena on the pro se former employer at union county college where the pro se also work as adjunct professor to release all employment information of the pro se to the attorney which has nothing to do with health record but a means to pursue a fraudulent third deposition of the pro se and non-party to continue delay strategy on the case after his motion for dismissal was denied so pro se dies off from no treatment of irreparable diabetes disease. The third-party defendant unlawfully received all employment data of the pro se as he requested and used pro se personal information such as academic transcript that contains social security number and date of birth, master's degree certificates, taxes, marital status etc. to request and obtain a third deposition of the pro se from the magistrate judge who refused to recuse himself after the third dismiss the magistrate judge deposition order (**See exhibit 7 of the defendant as practicing attorney impersonate himself as a New Jersey district court officer serving fake subpoena to retrieve pro se all employment record from former employer union county college by act of stealing by force; See also exhibit 8 of the defendants third deposition requirement request from the pro se using the stolen information of pro se record which has no relevance to the medical malpractice lawsuit but pro se personal record that violates due process right of the pro se right against unlawful search and seizure of property**). The magistrate judge without following third circuit order scheduled for third deposition of the pro se for the third time on about 13th December 2022 without application from the defendant for time extension which

violates Rule 26 and Rule 7 because the pro se was denied the right to oppose the deposition relief as agreed on April 8th, 2023 which was formerly resolved in third circuit (Exhibit 6). The magistrate judge refuse to recuse himself even when third circuit court made decision that the district judge should determine the deposition process because the parties did not consent to use the magistrate judge, but he refuse and continue his presence in the case to defend justice department contractors which is due process violation that constitute of judicial civil disobedience to override third circuit determination which requires judicial correctness. The magistrate judge refuse to recuse himself since June 2022 after the pro se filed first recusal affidavit against the magistrate judge and the magistrate judge refuse to stop proceeding with the case even after the third circuit court directed the district court judge to make determination of deposition since parties do not agree. The magistrate judge moves forward and prepared a report that the pro se have failed to prosecute his case because of refusing to attend the third deposition scheduled on 13th December 2022 which is due process right violation against third circuit order for the district court judge to make determination and not the magistrate judge. The pro se avoids the unlawful third deposition to protect himself from further harm from the magistrate judge who refuses to recuse himself and unlawful use of pro se personal information document obtain through unlawful seizure from union county college which is submitted by the defendant to schedule third deposition. The judge adopted the report of the magistrate judge who refused to recuse himself as required by law and refused to leave the case for the district judge to make determination as directed by third circuit court because parties did not consent over his action of being lawyer of the defendant. The district court judge refuse to make decision even when third circuit directed for the district judge to make final determination but held that

the court lacks jurisdiction to recuse the magistrate judge which is due process violation because a lady magistrate judge was removed by the district judge because the defendant cannot cheat their way. The pro se filed an appeal to third circuit for due process violation by the district judge and it was denied with a cost decision against the pro se to compensate the third-party defendant of their legal expenses who injured the pro se with irreparable diabetes disease and refuse to treat the pro se since 2019 to date. The pro se filed for rehearing at En banc informing the third circuit that there is misrepresentation of truth and omission of facts in the court final decision to affirm with the district judge opinion, but it was denied because of limited vote. The pro se humbly file for certiorari for supreme court review on a due process right violation involving criminal medical health malpractice case against the defendants who are justice department contractors (Essex County correction facility and CFG health system) that refused to treat the pro se of irreparable diabetes disease inflicted on the pro se. The defendant refused to treat the pro se and went on to permanently confiscate plaintiff medical record, delete the pro se medical doctor treatment plan from Rutger university hospital, replace lifetime medical treatment plan with one bottle of insulin and fake medical record to replace Rutgers university doctor treatment plan that will last for the entire pro se life.

THE FOLLOWING QUESTION ARE PRESENTED FOR REVIEW

1. The Pro se presents and seeks for supreme court to review third circuit court decision for due process right violation for using false statement and misrepresentation of information which violates Rule 60 of federal civil service proceeding. Third circuit on quote stated, "**Ezeani also argues that magistrate judge Almonte should have**

been recused because he previously worked as an assistant united states attorney and thus could not preside over a case involving detention in ICE custody". This is not the argument of the pro se for recusal and has nothing to do with ICE custody here but the argument of the pro se is that the magistrate judge was acting as a lawyer of the defendant by granting deposition without application from the defendant as agreed on 8th April, 2022, and the magistrate judge refused to recuse himself even when third circuit made determination that the district judge will make final determination (Exhibit 6) The pro se argued that the magistrate judge Almonte violated due process by acting as a lawyer of the defendant by granting unlawful deposition relief to the defendants to depose the pro se for the third time and non-party after the defendant deviated from April 8th, 2022, conference agreement to show cause but filed dismissal which is breach of contract. The action of the defendant to proceed with unlawful deposition without application for time extension as agreed on 8th April,2022 violates Rule 408 of the federal civil proceeding for breach of conference agreement which shows intent to cause delay using legal deception. The defendant violated rule 26 and Rule 7 of federal civil proceed by not filling application for time extension as agreed on 8th April 2022 to depose the pro se for third time and non-party.

2. The magistrate judge action to grant deposition relief to defendant to depose pro se for third time without application for time extension by the defendant as agreed on 8th April,2022 conference violates **28 U.S.C § 144** because the magistrate judge acted as the lawyer of the third-party defendant attorney (CFG health system LLC) by granting a deposition of the pro se and non-party without formal application by the

defendant in a case that have completed its cycle which also violates Rule 26. The magistrate judge violated 29 CFR § 2200.68 and 29 CFR § 2200.68 (d).

3. The third circuit court appeal decision that the pro se right to 28 U.S.C § 636 (C) is not necessary violates due process right of the pro se because consent is necessary particularly when there is an affidavit of recusal which the magistrate judge refuse to recuse without justification and third circuit appeal court directed the district judge to make final decision of deposition because parties did not consent in a non-party case (Angelina v CFGH) against the defendant (Exhibit 6) The pro se also presents that the defendant uses unlawfulness and act of forgery to forcefully retrieve personal record of the pro se from former employee at union county college such as education transcript, academic certificates, taxes, marital status etc. to obtain a third deposition from the magistrate judge which violates 4th amendment right to unlawful search and seizure of pro se personal information that violates federal privacy act. Unlawful search and seizure of pro se personal information from former employer from union county college to secure third deposition from magistrate judge violates due process right to fairness. The pro se presents that the decision of the appeal court violates due process right and conflicts with the previous supreme court decision to prove beyond reasonable doubt that the pro se constitutional right of 4th, 5th, 8th and 14th amendment right was not violated before affirming district judge decision of failure to prosecute. See *Winship*, 397 U.S 358, 363 (1970); *Apprendi v. New Jersey*, 530 U.S. 466, 477-78 "(200).

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3. PETITION FOR WRIT OF CERTIORARI

I, Gregory Ifesinachi Ezeani petitions the court for a writ of certiorari to review the judgement of the united state court of appeal for the third circuit court of appeal.

4. OPINIONS BELOW

The opinion of the third circuit court was denial and the third circuit En banc was also denial. The basis of the denial was originally based on the magistrate judge's report recommendation adopted by the district judge because the pro se failed to prosecute his case because of his failure to appear for third deposition of the pro se schedule on 13th December 2022 by the defendant who refuse to follow federal procedural process of deposition application. The magistrate judge was acting as the lawyer of the defendant by granting deposition relief without defendant filing application as agreed on 8th April 2022 and using information presented by the defendant obtain from unlawful search and seizure to grant deposition without proper deposition application that gives the pro se opportunity to oppose the relief which is due process violation. The magistrate judge who is appointed by the district court judge refused to recuse himself without justification since June 2022 after the pro se file recusal motion. The magistrate judge also refused to discontinue from the case after the third circuit dismissed the magistrate order because the parties did not consent which was reported on third circuit on a case of Angelina okwuego appeal for unlawful magistrate deposition order (Exhibit 6). The district court judge did not make final deposition determination as directed by the third circuit court (Exhibit 6) but moved the case back to the magistrate judge which is due process violation because the parties does not consent because the magistrate judge was acting as the lawyer of the defendant. The district

court judge violated due process by not following the direction of the third circuit to make final determination of deposition as directed by the third circuit appeal court (Exhibit 6). The district court judge used the report prepared by the magistrate judge he appointed who refuse to recuse without justification but proceed with the case that the pro se requested for a recusal of the magistrate judge and a new replacement of the magistrate judge. The magistrate judge action violated Rule 408, Rule 7, Rule 26 and 28 US § 144 which is the basis of the pro se recusal petition motion and the magistrate judge violated third circuit order that the district judge must make final determination of the deposition (Exhibit 6). The district court judge neglected the third circuit court order but imposed the magistrate judge on the pro se which is due process violation and cruelty that violates 8th amendment constitutional right of the pro se because the magistrate refuse to recuse himself without justification. The magistrate judge granted deposition relief to the defendant who did not file the time extension to depose the pro se by showing cause as agreed on 8th April 2022 conference which due process right violation. The third circuit court forgot to review the defendant' s action to disobey court order to file time extension because the defendant attorney file motion to dismiss the plaintiff medical malpractice lawsuit for failure to prosecute which was dismissed in Nov 2022 by the district judge because it is not a factual claim because no evidence was submitted. The pro se refuses to attend the 13th of December 2022 third deposition to save himself from further harm from constitutionally disqualify magistrate judge that refuse to recuse from the case after his exhibition of biasness and prejudice against the pro se. The third circuit affirmed the decision of the district judge in dismissing and denying the case under Rule 37 and Rule 41 which violates due process right of the pro se because material document adopted from the magistrate judge by the district

judge was obtained through unlawfully federal civil procedure because unlawful presence of the magistrate judge that refuse to recuse as required, and with no justification to refuse to discontinue even after third circuit decision that directs the district judge to make final decision is unconstitutional (Exhibit 6). The decision of third circuit court failed to satisfy the requirement of the supreme court test on the due process clause that protects the plaintiff from unfairness as a matter of Rule of law. Moreover, the third circuit court refuse to review violation of Rule 408 on breach of conference agreement between the pro se and the defendant before the magistrate judge that defendant will file time extension to show cause the reason to depose the pro se for the third time so that the pro se will respond as agreed on April 8th 2022. Third circuit court refuse to review a clear fact that the magistrate judge appointed by the judge was acting as the lawyer of the defendant by granting deposition relief to depose the pro se for the third time without defendant application for time extension filed with the court after defendant motion to dismiss was denied by the district judge which clearly violates Rule 7, Rule 26 and 28 U.S §144 of federal civil proceeding. The magistrate judge refused to recuse himself without justification from the case after the plaintiff filed for recusal which violates 29 CFR § 2200.68 (C). The magistrate judge refused to discontinue after third circuit appeal in Angelina okwucgo deposition referred the case to the district judge to make final decision since the parties did not consent (Exhibit 6). The magistrate judge appointed by the judge proceeded with the case without justification which violates 29 CFR § 2200.68 (d). The third circuit appeal final decision determine that consent of the pro se is not necessary in a case the pro se file affidavit of recusal against the magistrate judge appointed by the district judge which violates 28 U.S.C § 636 (C) because the

magistrate refuse to recuse without justification, so consent is required to allow magistrate judge presence to proceed in a case where the magistrate judge is acting as the lawyer of the defendant. The decision conflicts with third circuit decision that consent is required in Angelina okwuego deposition appeal to third circuit because the parties did not consent (Exhibit 6). However, the magistrate judge is constitutionally disqualified to proceed with the case. The third circuit court of appeal used faulty decision process from unlawful procedure of the magistrate judge and district court judge to make determination to affirm the district judge decision. This action of third circuit court violates due process right of the pro se because the district court lack jurisdiction to adopt unlawful legal report from constitutionally disqualify magistrate judge that refuse to recuse himself or discontinue as directed by third circuit appeal court in Angelina okwuego appeal against magistrate judge order (Exhibit 6). The third circuit determination was based on a magistrate judge report adopted by the district judge which is due process right violation because the report was obtained from unlawful procedure and unlawful presence of the magistrate judge (Exhibit 6). Third circuit refused to review the motion that the pro se filed to the district judge to replace the magistrate judge with another magistrate judge in the same way the previous lady magistrate judge which is the reason why she was changed. The defendant cannot cheat their way with a lady magistrate judge who does not have affiliation with Justice department. The third circuit court determined that the defendant's unlawful action of unlawful search and seizure to steal the pro se personal information to pursue a third deposition is official legal professional practice that does not violate due process right of the pro se to unlawful search of 4th, 5th, 9th and 14th amendment right which requires review by the supreme court.

4.**JURISDICTION**

The third circuit appeal court enter decision on 3rd July 2023 and third circuit En banc appeal court enter judgement on August 1st, 2023. See **Appendix A third circuit appeal decision, Appendix B third circuit En banc decision, Appendix c of district judge decision and Appendix D of the magistrate judge decision.** This petition is timely filed in pursuant to supreme court Rule 13.1. this court has jurisdiction under U.S.C 1254(1).

5.**STATUTORY PROVISION INVOLVED**

This case involves “review under Rule 408 on breach of conference agreement by the defendant who refuse to file time extension to depose the pro se for the third time and non-party to show cause for deposition relevancy rather than delay as agreed on 8th April 2022 conference with magistrate judge. The defendant voluntarily forfeits to file time extension application to depose the pro se for the third time but obtain deposition relief from magistrate judge unlawfully without application to court which violates Rule 7 and Rule 26 of the federal civil procedure that the defendant must file an application for a specific relief as agreed on 8th April 2022 conference with the magistrate judge because the case original cycle time have been completed on 5th April, 2022. Use of fraud of any form violates Rule 60 of federal civil procedure. Moreover, the case involves violation of the statutory law of 28 U.S. §144 because the magistrate judge acted as lawyer of the defendant by granting deposition relief to the defendant to depose pro se for the third time on 13th December without defendant application for extension to depose the pro se for the third time filed with the court which is clear bias against the pro se and, the magistrate judge overrides third circuit decision that the district judge will make final determination of the deposition process

(Exhibit 6). The defendant was granted deposition relief without showing cause to depose which violates due process because pro se did not have the chance to oppose the unlawful deposition granted by the magistrate judge because the relief did not follow proper federal civil procedure of granting deposition. The case also involves the statutory law of 29 CFR § 2200.68 (c) because the magistrate judge refused to recuse without justification.. The magistrate judge refuse to provide justification why he refuses to recuse and why the court should issue order granting deposition relief to the defendant without application for time extension from the defendant as agreed on 8th April 2022 conference because the case have completed its cycle which violates the statutory law of 29 CFR § 2200.68 (d). The statutory law requires the magistrate judge to recuse himself and stop further proceedings unless there is a proper justification filed by the magistrate judge and, in this case the magistrate judge failed to provide any justification in other to proceed with the case, so the report prepared for the district judge is unconstitutional and unacceptable as a matter of Rule of law. The decision of third circuit appeal court violates the statutory law 28 U.S.C § 636 (C) that the pro se consent is not necessary because third circuit court in Angelina Okwuego appeal on magistrate judge deposition order determine that consent of parties is necessary and directed district court judge to make final decision (Exhibit 6). Moreover, the defendant obtained the pro se personal record such as academic record, Tax information, marital status etc. through unlawful search and seizure which was used to obtain a third deposition of 13th December 2022 which violates due process right of 4th, 5th, 8th and 14th amendment right. Third circuit appeal court held that the defendant attorney of CFG health system did not violate any privacy law by unlawfully obtaining the pro se personally information without

pro se consent to pursue for unlawful deposition which is due process right violation that requires review because the defendant attorney used act of stealing to obtain personal data of the pro se which was used to obtain third deposition. Third circuit affirms the decision of the district judge based on Rule 37 and Rule 41 without proper review of the unlawful violation of statutory laws and procedure used to obtain material document used in district judge decision from magistrate judge report which is due process violation.

6.

STATEMENT OF THE CASE

Concisely, we cannot fit a round peg in a square hole as a matter of the constitutional law and this is why the framers of the constitution of United States laid down rules of conduct and procedure as a matter of fairness particularly to a pro se and others. The third circuit court denied addressing a wrong procedure that violated constitutional due process right of the pro se to appropriate federal civil procedure and fairness as a matter of law even when the pro se remind the court of relevant omission that violate constitutional due process of the pro se in his application for rehearing enbanc. The district court judge appointed a magistrate judge with over 8 years of experience working with justice department before becoming a magistrate judge to replace a previous lady magistrate judge who do not have any affiliation with justice department towards the end of the case in a case that involve justice department contractors (Essex County correction jail and CFG Health systems) which is a clear conflict of interest to help the defendant exonerate from not treating the plaintiff from the irreparable diabetes disease that the defendant inflicted on the pro se as a federal prisoner in an attempt to help DHS/ICE deport the pro se unlawfully using induce cell

which is a criminal medical malpractice by CFGH facility contracted by Essex county correction facility. The defendant issued a fake medical report to the pro se with one bottle of insulin to replace medical doctor treatment plan of annual specialist doctor, annual specialist foot doctor and other body diabetic doctor treatment that will run for the entire plaintiff life on earth. Moreover, the defendant refused to file for a time extension to depose the plaintiff as agreed on April 8th, 2022, so that the pro se will respond which clearly shows that the defendant is using delay strategy to kill the plaintiff using lack of treatment but out of God mercy the pro se is still living without death for four years without medical doctor diabetes treatment. The defendant refuses to follow the court order and file dismissal motion for pro se failure to prosecute which was denied by the district court judge in November 2022. The magistrate judge refused to recuse himself after acting as the lawyer of the defendant by defending justice department contractors by granting deposition relief without application from the defendant as agreed on 8th April 2022. The magistrate judge acted as a lawyer of the defendant because he was a former employee of the justice department for over eight years working to protect justice department contractors. The magistrate judge refuse to discontinue from the case after the third circuit dismiss magistrate judge order in Angelina okwuego deposition directing the district court judge to make final determination of deposition because parties did not consent (Exhibit 6). This case is relevant for the sake of public medical health policy protection of federal prisoners. Moreover, this will help deter this ugly criminal medical malpractice against federal prisoner who did not commit no crime but get injured by the defendants out of wickedness without no justification. The pro se have not receive no medical doctor treatment for four years on irreparable diabetes disease that justice department contractors (Essex County correction and CFG Health system) inflicted

on the pro se since 2019. Moreover, the third circuit court of appeal used (Poulis determination) introduced by the magistrate judge and adopted by the district judge to support denial decision under Rule 37 and Rule 41 which violates due process right of the pro se. The third circuit affirmed with the district judge decision using (Poulis determination) which violates due process right of the pro se because proper procedure was not used to obtain this material document reported by the magistrate judge before its adoption by the district judge and appeal court decision. The district court cannot use material reports obtained by unlawful presence of the magistrate judge and procedure to make determination because it violates due process right of the pro se. The third circuit decision is clearly in violation of supreme court previous decision on due process clause because the court did not prove beyond reasonable doubt that federal procedural process used in district court decision from magistrate judge did not violate due process right clause of the pro se as previously determined by supreme court. See *Winship*, 397 U.S 358, 363 (1970); *Apprendi v. New Jersey*, 530 U.S 466. The decision of the third circuit violated 5th, 8th and 14th amendment on the basis of neglecting relevant federal statutory law and procedure as a matter of fairness. The supreme court must endeavor to resolve the conflict of laws for future reference because the magistrate judge lacks constitutional legal authority to proceed with the case or scheduling a deposition of the pro se for the third time on 13th December and again with Angelina okwuego on 10th January 2023 because third circuit already made decision that the district court judge will make determination of the deposition since the parties did not consent (Exhibit 6). The district court continue to use the magistrate judge who is constitutional unfit to be present in the case which is due process violation because

suffered irreparable diabetes after DHS unlawfully broke into pro se house with a gun point and a falsified immigration charge allegation that is not true on the pro se . The pro se is a doctorate degree student in Business administration at university of the Cumberland in state of Kentucky and doctorate degree student in engineering at Old Dominion university in the state Virginia who never committed no crime against any state law or federal in United state and in a few time be blind with leg amputation as a result of inflicted irreparable diabetes infection to the pro se. The pro se is using the name of the almighty God to plead for the conscience of the supreme court to this case because the pro se health is currently under the threat of leg amputation, eye blindness, heart attack, stroke, kidney disease etc. because the pro se have not receive no medical doctor diabetes treatment for four years because of the defendant delay in federal court. The pro se pray for a godly conscience of the supreme court because the supreme court is the only living God on earth in this case at this point because only its decision can stop the defendant from criminal medical malpractice and refusal to treat the pro se of medical irreparable diabetes injury inflicted on the pro se. Moreover, only the conscience of the supreme court at this point can save the life of the pro se who was a few distance to graveyard due to 4 years lack of treatment of irreparable disease inflicted on the pro se by the defendant. The defendant confiscated the pro se doctor medical record from Rutgers university permanently and deleted treatment plan because they don't want to treat the pro se of irreparable disease that the defendant inflicted on the plaintiff. The pro se prays and puts his trust on the conscience of the supreme court to stop untimely death because of irreparable diabetes treatment inflicted on the pro se by the defendant.