

U.S. Supreme Court Case No. 23-6548
Wyo. Sup. Ct. No. S-23-0120
2nd Judicial District Court No. 22-168

IN THE UNITED STATES SUPREME COURT

Andrew Joseph Avitable,
il Marchese di Monte Bianco,
(aka "Larson" by coercion only),
Petitioner,

vs.

STATE OF WYOMING,
Respondent.

**Edited MOTION FOR REHEARING ON
PETITION FOR WRIT OF CERTIORARI
FROM THE WYOMING SUPREME COURT**

Petitioner
Andrew J. Avitable
c/o WDOC #23916 – WSP
P.O. Box 400
Rawlins, WY 82301

Respondent's Attorney,
Wyoming Attorney General
2320 Capitol Ave.
Cheyenne, Wyoming 82002

***All Litigants are Contained within the Caption**

COMES NOW, autistic Petitioner/Movant, Andrew Joseph Avitable (Movant), a man with the High Ranking European Royal Peerage Title of Marchese di Monte Bianco, *Pro Se* and in forma pauperis in the above captioned case, and moves this Court for a “Rehearing en banc.” Movant believes his Petition for Writ of Certiorari in the immediate case facially warrants judicial review of the deliberate and wanton violations of the rights of he and many others, which violate: this Court’s and other federal and state courts’ standing precedents; the U.S. and Wyo. Constitutions and Laws; International Law, and the foundation of the U.S. Court System.

This Court denied Movant’s Petition for Writ of Certiorari on February 26, 2024; requiring this Motion for Rehearing be mailed no later than March 22, 2024 to be in compliance with the Mailbox Rule. Movant mailed his Motion for Rehearing on March 13, 2024, and the WDOC post-marked it March 14, 2024, but did not make the 6 day trip until March 29, 2024; Movant received this Court’s April 1, 2024 letter for corrections in the evening of April 8, 2024, giving him until April 16, 2024 to have his corrections back to this Court. Movant has met this obligation; and submits this Motion with the request it be addressed “en banc,” while honoring the Mailbox Rule.

Grounds – This Motion for Rehearing is limited to Intervening Circumstances of Substantial and/or Controlling Effect and/or Other Substantial Grounds not Previously Presented. This Motion is presenting the issues of the multilevel and continuing conspiracy to accomplish the rights violations addressed within this case as well as the obligations imposed by Federal Law upon all who possess the authority and/or power to rectify/mitigate the violations of individuals’ protected rights and the fact that EVERY person possessing that obligation thus far has abandon their duty and oath of office to participate in the cover-up of said violations. This Motion presents Dereliction of duty,

Discussion – Many people are relying on a fair and proper judicial review of these filings

to correct the criminal and civil injustices within Wyoming that are unconstitutionally incarcerating innocent citizens and denying the review of grievances through the use of unconstitutional statutes and practices, as well as mendacities used to further manipulate the system, as well as the WDOC's continuance without judicial review by state and lower federal judiciary officials, who justify the abuses by court officers serving politics instead of justice in dereliction of their oaths of office. The malfeasant behaviors of these officials NEED to be halted to protect the integrity of both the U.S. Court System and the Const., showing multilevel continuing conspiracies.

In support of this filing, Movant states as follows:

1. While in Wyo. Movant has observed how the Wyo. Officials have falsely convicted and incarcerated innocent men (including himself) by the State's refusal to comply with the U.S. and Wyo. Constitutions, refusal to comply with legitimate laws, the enactment of unconstitutional statutes to circumvent the mandates of the U.S. Const.; and their creating laws to absolve themselves of liability or obstruct prosecution for their criminal actions while spouting preposterous statements like "That doesn't apply to us" when confronted with Federal Law condemning their actions. The Officials and the courts hearing the cases have grossly abused 11th Amend. immunity by granting immunity to officials who deliberately violate defendants' rights and the Constitutions.
2. Movant made every attempt he can think of to correct the violations in accordance with his oaths (military & civilian law enforcement). The lower courts and officials have not honored their oaths of office. He continues to profess his innocence and the evidence confirms his claims. Nobody was willing to look at his innocence or the evidence. Nobody has considered anything he presented. Wyo. intentionally violated his contract and the law and people's rights.
3. Movant attempted to gain redress by getting the U.S. and Wyo. Attorneys General, FBI,

U.S. Department of Justice, U.S. Department of State, State and Federal District Courts, Wyo. Supreme Court, and 10th Circuit Court of Appeals and Presidents Obama, Trump and Biden involved with no success. Nobody is willing to hold the Wyo. Officials accountable to the Law, the Federal Courts' Rulings, the U.S. Supreme Court's Rulings and both the U.S. and Wyo. Constitutions. The Wyo. Officials' contempt for the law has remained unchecked. Everyone contacted has kowtowed to the Wyo. Officials as though they fear contradicting them.

4. Movant prays you will excuse his bluntness in this matter; however, he is beginning to question if the U.S. and Wyo. Constitutions are dead, like so many other people because unchecked injustices like those occurring in Wyo. create the illusion that the Constitutions serve less purpose than toilet paper, which at least cleans you. Movant questions what he was willing to give his life to protect when the same Country and Constitution refuse to provide him from state abuses resulting in unconstitutional conviction for a crime that never occurred; and was nothing more than motivated by local political agendas like revenge.

5. Movant's oath to protect the Constitution is just as compelling as the oaths the officials who have been violating the rights of people in their jurisdictions took; however, unlike those officials, Movant still holds true to his solemn oath. Just like this Court, the lower judges have taken an oath to uphold the U.S. (and Wyo.) Constitution(s) when they took office; and that oath of office requires them to render their rulings in accordance with the mandates of the Constitution.

6. Anyone knowing that the deliberate violations of someone's rights are occurring and doing nothing to correct those crimes is as guilty of violating the people's rights as the ones committing the crimes in the 1st place, because they are allowing the crimes to continue. Complacency is as bad as covering-up the crime, because the crimes continue to be committed with impunity. Choosing to allow someone's rights to continue to be violated when one can correct the problem

is a secondary act of conspiracy by action, and is not upholding the U.S. Const. as the oaths of office mandate; thereby deserving of culpability, not immunity.

7. Movant is faced with Motion for Rehearing en banc in the attempt to get someone...anyone to perform their duty under the U.S. Const. and Federal Laws, to correct the criminal actions by Wyo. Officials deliberately violating people's rights. The actions of the Wyo. Officials amount to conspiracy as do the actions to cover-up the crimes. Thus, multiple separate conspiracies have occurred. Under 18 USCS § 371, offense is made out even though primary objective of fraudulent representation is concealment of another crime.

8. Individually and in the cumulative, these two conspiracies have resulted in a denial of due process on multiple levels from the disciplinary level all the way through the State and Federal Courts to the 10th Circuit Court of Appeals level. They have also resulted in MANY people declaring that this is proof of the U.S. Court System being corrupt in its entirety. Federal Law places a duty on those who are in positions capable of correcting and/or stopping rights violations to stop those violations when they become aware of them.

9. 42 USCS §1986. "Action for neglect to prevent conspiracy. Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in the preceding section [42 USCS 1985], are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action,"

10. The deliberate and wanton violation of the rights of people in the U.S. is an offense committed against the U.S. A deliberate violation of the U.S. and State Constitutions are offenses

committed against the U.S.; therefore, the actions of those Wyo. Officials who have chosen to disregard their oaths of office to commit the offenses in Wyo. and those choosing to cover-up the violations are both guilty of conspiracy. In both cases, the offenses rise to the level of felonies. Therefore, Wyo. Officials (judicial and correctional) and Federal Officials (judicial and law enforcement) have all committed the crimes of conspiracy against the U.S. These crimes are further exacerbated by their violations of their oaths of office.

11. 18 USCS §371: “Conspiracy to commit offense or to defraud U.S. If two or more persons conspire either to commit any offense against the U.S., or to defraud the U.S., or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both. . . .” Crimes against Citizens or visitors to this Country are crimes against the U.S.

12. In this case, the conspiracy began with Movant’s ex-wife (Ingrid L. Larson), her personal friend Dr. Amy Gruber (pediatrician) and her personal friend, Wyo. Sr. Asst. AG Meri W. Geringer, to eliminate Movant’s ability to provide the local police with any further information about how Ingrid was abusing her children and endangering their lives through neglect. (See Cheyenne Police Department Case # 04-065205). Police officers and members of the Wyo. Public Defender’s Office were brought in to arrest and coerce a guilty plea from Movant to ensure his conviction and silence him in the afore matter. (See *U.S. v. Cross*, 128 F.3d 145 (3d Cir. 1997), cert. denied, 523 U.S. 1076 (1998), app. after remand, 178 F.3d 1280 (3d Cir. 1999)).

18 USCS § 241 covered conspiracy to deprive citizens of their rights under Equal Protection Clause even though most of conspirators were private citizens whose activities could not be violative of Fourteenth Amend., since indictment alleged, as one of methods used, false arrest of persons being harassed, in which government officials could have been involved. *U.S. v. Guest*, 383 U.S. 745 (1966). Police officers’ false arrests were offenses punishable under 18 USCS §241, since any right protected under 18 USCS § 242 must be included under those protected by §241. *U.S. v. McDermott*, 918 F.2d 319 (2d Cir. 1990), cert. denied, 500 U.S. 904 (1991). Government need not prove that police officers who

allegedly used excessive force acted for ostensible government purpose rather than for personal reasons, since their acts were committed “under color of law.” *U.S. v. Reese*, 2 F.3d 870, 93 Cal. Daily Op. Service 5642, 93 D.A.R. 9617 (9th Cir. 1993), cert. denied, 510 U.S. 1094 (1994).

13. The conspiracy continued through the Public Defender’s Office (PDO) where co-conspirator, Joy McMurtry, failed and refused to divulge the conflict of interest she had with Movant (see U.S. v. Carbo, 572 F.3d 112 (3d Cir. 2009)) because she worked in the same office with the lawyer (Carol Serelson) representing Movant’s wife in their concurrent divorce that hinged upon the criminal conviction to determine who won the divorce and McMurtry’s defense investigator (Mark Goldberg) was in a common law marriage with Ms. Serelson; continuing through appeal when appellate attorney (Megan Hayes) refused to render Constitutional representation and filed a fraudulent Anders Brief; and Wyo. Supreme court Judge Voigt provided Ms. Hayes instruction on how to overcome Movant’s Motion to replace Ms. Hayes due to her conflict.

14. When Wyo. Sr. PDO Ken Koski attempted to correct the criminal activity, he fell to his death in an unexplained rock climbing accident. (Ingrid was employed as a mountaineering guide in college, where she taught others how to climb rocks, mountains and glaciers.) When Mark Goldberg wanted out of the conspiracy, he suddenly died of a massive heart attack. (Ingrid was known for using herbs to manipulate others by putting them in food and drink. Movant was victimized by Ingrid’s use of “Mandrake” when he 1st met her, in her coercing a marriage he did not want.) Oddly enough, when Ingrid’s mother confronted Ingrid about Ingrid’s mental health issues, she died in an unexplained car accident. Everyone who contradicts Ingrid vanishes.

15. Once Movant, an autistic man, was coerced to accept an unwanted guilty plea by conflicted counsel, long after his speedy-trial time limit (180 days) had expired (329 days), the Wyo. Department of Corrections (WDOC) began violating his right to freedom of speech, expression and religion as well as unconstitutional and unjustified long-term lock-downs (10 months

without break). Many WDOC employees participated in this 1st Amend. conspiracy to try to force Movant (Avitable) to accept an unwanted alias (Larson) and force him to change his signature to match that unwanted alias. (This is a continuing conspiracy in that the WDOC still will not allow him to use his legal signature.) These illegal acts have resulted in increased custody level and unconstitutional lock-downs via Conduct Violation Reports (CVR) for Movant using his legal signature. He continues to live under the threat if he uses his legal signature, a mandate under state and federal law as well as a Protected 1st Amend. Right.

Conspiracy continues as long as conspirators engage in overt acts in furtherance of their plot, it being in nature of conspiracy that each day's acts bring renewed threat of substantive evil which Congress sought to prevent. *Toussie v. U.S.*, 397 U.S. 112 (1970); *U.S. v. Borden Co.*, 308 U.S. 188, 1932-39 Trade Cas. (CCH) ¶ 55250 (1939).

16. Though Movant has been moved between the four male facilities Wyo. operates, the conspiracy has not ended as he continues to be subjected to this unconstitutional violation of his 1st Amend. Right to use his legal signature. There has been a continuity of the action of violating Movant's 1st Amend. Right throughout all the WDOC facilities. See *Fiswick v. U.S.*, 329 U.S. 211 (1946); and *Telman v. U.S.*, 67 F.2d 716 (10th Cir. 1933), cert. denied, 292 U.S. 650 (1934).

17. The conspiracy includes all who ordered Movant to utilize the illegal signature; all who issued CVR's for his refusal; and all who had the authority to correct the illegal actions but chose not to, like the Wardens, Grievance Managers, Prison Division Administrator, Deputy Prison Division Administrator, WDOC Director and those formerly holding the offices and refusing to correct the crimes. See *U.S. v. Reese*, 2 F.3d 870, 93 Cal. Daily Op. Service 5642, 93 D.A.R. 9617 (9th Cir. 1993), cert. denied, 510 U.S. 1094 (1994). If the intent of carrying out a conspiracy exists, then there is a conspiracy even if the details are never agreed to aloud by the participants. The "plain language" California Civil Instructions states: "A conspiracy is an

agreement between two or more persons to commit a wrongful act. Such an agreement may be made orally or in writing or implied by the conduct of the parties." Participants entered into tacit agreement with each other and other correctional staff to violate Movant's rights, thereby depriving him of rights secured to him by the Const. See *U.S. v. Scott*, 979 F.3d 986 (2d Cir. 2020). "Existence of conspiracy could have been shown by inference or by circumstances." *Fitzgerald v. U.S.*, 29 F.2d 881 (6th Cir. 1929).

Person acting under color of state law who invades personal liberty of another knowing that invasion is in violation of state law has demonstrated bad faith and reckless disregard for Constitutional rights. *U.S. v. Dise*, 763 F.2d 586 (3d Cir.), cert. denied, 474 U.S. 982 (1985). In prosecution for violation of 18 USCS § 241 government need not establish that there existed formal agreement to conspire; circumstantial evidence and reasonable inferences drawn therefrom concerning relationship of parties, their overt acts, and totality of their conduct may serve as proof. *U.S. v. Redwine*, 715 F.2d 315 (7th Cir. 1983), cert. denied, 467 U.S. 1216 (1984).

18. The fact that the conspiracy traveled between facilities and the participants changed did not discontinue the continuing conspiracy in that all were WDOC employees and all followed the same orders to violate Movant's right. Subsequent overt acts of any of the associates continued all participants in the conspiracy so far as statute of limitations is concerned. *Hyde & Schneider v. U.S.*, 225 U.S. 347 (1912).

19. This right is protected under the Freedom of Speech Clause in that one is legally free to write whatever they choose; and protected under the Freedom of Expression because a signature is one's expression of self; and protected under the Freedom of Religion because the 4th Commandment states to: "Honor thy father and mother." Forcing Movant to utilize a signature other than his legal signature, which is his family name of "Avitable" is forcing him to dishonor his father and entire paternal lineage in violation of his religious beliefs.

20. The third conspiracy is also continuing in that the State and Federal Court Justices, as well as the clerks of court, who have refused to correct this violation despite their possessing the

authority to do so, have participated in the conspiracy of covering-up the criminal activity of the Wyo. Officials. Though these three conspiracies may not be clearly established by a written or verbal agreement, they are clearly demonstrated by the actions of the participants to effectuate these crimes and to cover-them-up.

21. The enactment of state statutes that facially violate the U.S. and Wyo. Constitutions **MUST** be corrected because allowing them to remain in force shows a dereliction of duty and a violation of oath of office by any judiciary or court officer who fails and refuses to correct these statutes that overtly violate the right to due process and the right to redress of grievances.

22. This Court has the responsibility to “We the People” of the U.S. to protect our rights when all other subordinate courts fail to perform their duty. This Court has the mandate to ensure that its rulings are complied with and hold anyone in violation of those rulings in contempt. This Court swore an oath to uphold the U.S. Const. regardless of whether or not the lower courts chose to do so, and regardless of whether or not it is the politically preferred course of actions. You, as officers of this Court, have a duty to reign-in the rogue Wyo. Officials. You, the U.S. Supreme Court have the obligation to enforce the laws of this Country, especially the foundational law, “the U.S. Constitution.” You, the U.S. Supreme Court have the authority to order the negligent federal agencies to investigate and act upon the violations occurring in Wyo. that they have “shown-a-blind-eye-to” so far. Your failure to act upon these violations, like the lower courts, negates the U.S. Const., which is the contract between the people and the government of the U.S. that allows the government to govern the people. Without the U.S. Const. in force, the government has no authority over the people and this Country ceases to exist.

23. This Court has been presented several unconstitutional Wyo. statutes that **MUST** be either repealed or brought into compliance with the U.S. Const. This Court has been presented numerous rights violations that it has a duty to correct. It has been provided justification for any

actions it takes to correct the violations and justification to order the appropriate federal authorities to investigate and act upon these violations.

24. Movant has provided this Court with violations of Article 6 of the U.S. Const. in that he has brought into review Wyo. Statutes that subvert the U.S. Const. Movant has provided this Court with violations of the 1st Amend., the Fifth Amend., the Sixth Amend., and the Fourteenth Amend.. Now, under Article 3, Sections 1 & 2 of the U.S. Const., this Court has the responsibility to rectify/remedy those violations.

Federal civil rights statute (18 USCS § 241), which makes conspiracy to interfere with citizen's free exercise or enjoyment of any right or privilege secured to him by Const. or laws of U.S. criminal offense, embraces all of rights and privileges secured to citizens by all of Const. and all of laws of U.S., including Thirteenth, Fourteenth, and Fifteenth Amend.s; sweep of statute is not confined to rights that are conferred by or flow from Federal Government, as distinguished from those secured or confirmed or guaranteed by Const.. *U.S. v. Price*, 383 U.S. 787 (1966).

25. Movant points out that the only law within the U.S. that has not been watered-down, until this case, through conflicting lower court rulings, is contract law. The reason contract law has not been weakened is because without it remaining resolute, too many businesses would fail and the economy would collapse. Contract law has remained firm until the immediate case, in that until this case Wyo. (and the 49 other states) has not tampered with contract law because they would be jeopardizing their own finances. With Wyo. upsetting the delicate balance through this case, Wyo. is threatening to upset the entire apple-cart. A lower court cannot be allowed to falsely claim, in the light of an actual written contract in hand, that there is no contract just to ignore the ramifications contract law has on that contract. If this case is allowed to stand, then Wyo.'s erroneous precedent will be allowed to be quoted by anyone wishing to avoid culpability for violating their own contracts by merely falsely claiming the contract does not exist.

26. The fact that Wyo. has established unconstitutional laws does not alone amount to conspiracy; however, once Movant brought the fact of how these laws are unconstitutional and

how their misapplication was violating the rights of citizens, Movant created a situation in which the lower courts had a duty under their oath of office to correct the rights violations. The Wyo. AG and lower court judges refused to correct and/or repeal these unconstitutional statutes created another conspiracy in that each had the ability and duty to correct the problems and worked together to suppress Movant's complaints, obstructing court access. The Wyo. Officials have been working in concert to violate the rights of not only Movant, but those of MANY residents of and visitors to Wyo. regardless of whether they are visiting for leisure or employment. Because the problems were brought before the Wyo. Courts, one cannot claim the violations were unintentional. The violations are clearly deliberate.

27. Finally, the founding fathers intended the courts be available to every citizen for redress of grievance. This is why the mandate was encoded in the 1st Amend. At no time was there a limitation that courts only be available to those with money to file and litigate actions. Nowhere was there a provision that only people who can afford an attorney were allowed to file cases. Therefore, this Court has the responsibility to ensure the courts of the U.S. remain available to all for redress of grievance regardless of finances, as the 1st Amend. mandates that "Congress shall make no law abridging the right of the people to petition the government for a redress of grievances." It places no limitations or restrictions on that right as hoops for "the people" to jump through. Therefore, Wyo.'s denial of court access for people who do not have the funds to pay the filing fees violates the 1st Amend.

CLOSING

Violation of 18 USCS § 241 occurs when there is conspiracy to deprive individuals of Constitutional rights with specific intent to violate such Constitutional rights; however, it is not required that immediate intent to violate such rights predominate over ultimate purposes that violations were designed to achieve. *U.S. v. Ellis*, 595 F.2d 154 (3d Cir.), cert. denied, 444 U.S. 838 (1979).

28. "Civil rights statute in 18 USCS §241, which penalizes conspiracy to interfere with

citizen's right or enjoyment of any right or privilege secured to him by Const. or laws of U.S., encompasses all of rights and privileges secured to citizens by all of Const. and all of laws of U.S." *U.S. v. Johnson*, 390 U.S. 563 (1968). Movant made the prerequisite showing that his rights were violated and that this Court has jurisdiction and a duty to correct those rights violations under Federal Statutes as well as the U.S. Const. The lower courts' judiciary have participated in the conspiracy by their attempts to cover-up the crimes committed. (See *U.S. v. Walsh*, *supra*.)

If defendant's participation in conspiracy has been established, defendant is culpable for everything said, written or done by any of other conspirators in furtherance of common purpose of conspiracy. *U.S. v. Overshon*, 494 F.2d 894 (8th Cir.), cert. denied, 419 U.S. 853 (1974), cert. denied, 419 U.S. 878 (1974). *U.S. v. Brasseaux*, 509 F.2d 157 (5th Cir. 1975). See also *U.S. v. Marionneaux*, 514 F.2d 1244 (5th Cir. 1975), app. after remand, 552 F.2d 621 (5th Cir. 1977). One knowingly aiding conspiracy was criminally liable as conspirator. *Simpson v. U.S.*, 11 F.2d 591 (4th Cir.), cert. denied, 271 U.S. 674 (1926).

29. Movant has clearly shown that a conspiracy between the actors. "Where defendant aided conspirators knowing in general way their purpose to break law jury could infer that he entered into express or implied agreement with them." See *Luterman v. U.S.*, 93 F.2d 395 (8th Cir. 1937), cert. denied, 303 U.S. 644 (1938), cert. denied, 303 U.S. 644 (1938), reh'g denied, 303 U.S. 668 (1938). For any that try to falsely claim they were not part of the conspiracy, their reckless disregard for the risk that they would violate such rights eliminates their defense. See *U.S. v. Johnstone*, 107 F.3d 200 (3d Cir. 1997). AND those guilty of a violation of 42 USCS §1986 are guilty of passive participation in the conspiracy. See *O'Neil v State*, 237 Wis 391, 296 NW 96, 135 ALR 719.

"Conspiracy under 18 USCS § 241 requires no proof of overt act, since to require one would unduly narrow application of statute." *U.S. v. Skillman*, 922 F.2d 1370, 91 Cal. Daily Op. Service 230, 91 D.A.R. 161, 31 Fed. R. Evid. Serv. (CBC) 1133 (9th Cir. 1990), cert. dismissed, 502 U.S. 922 (1991). "Conspiracy charge does not require proof of intent or knowledge, if proof of such element is not required

by underlying substantive count.” *U.S. v. Squires*, 581 F.2d 408 (4th Cir. 1978).

30. 18 USCS §241, §242, 42 USCS §1985 & §1986 violations are clearly established in Movant’s lower court filings. Now this Court is faced with the lower courts’ abandonment of duty eroding the public’s faith in the U.S. Court System as verified in the documents already submitted in this case (See Alden and Bindner Letters and Movant’s 2/26/24 Letter to this Court to mention a few). This Court is now faced with cleaning the lower courts’ mess. The lower court’s “Rubber-Stamping” of the AG’s cover-up is devaluing the U.S. Const. and all the lives given and destroyed to preserve that Const. as well as the rights it provides **YOU** personally?

31. Movant has shown how Wyo. has created a caste system within which only one tier of the caste is allowed to have court access and those who are financially handicapped (indigent) are precluded from court access and cannot gain redress of grievances because of their lack of money. The only exceptions are those who can obtain the assistance of an attorney. Since attorneys in Wyo. avoid helping inmates, the indigent inmate population is prevented from enforcing their rights; and is left as prey to the predatory officials who hold contempt for the law!

32. Will this Court allow Wyo. to eliminate the stability in contract law and provide all who violate contracts a loophole to avoid culpability for their breaches of contract? If so, the U.S. Const., like all other contracts will no longer hold any value and the U.S. Government will no longer have authority to govern the people of the U.S.; and absolutely no existing statute will be valid because they all fall under the U.S. Const. and the authority it gives the government to make laws to govern the people.

33. Will this Court confirm or disprove Mr. Alden’s January 19, 2011 scathing indictment of the Wyo. courts, as quoted from the original Petition: In my experience with the Wyo. Supreme Court, which is fairly extensive, they will do anything to avoid overturning even the smallest conviction. “Mr. Alden closed with: “I just have no faith that the Court has the moral courage or

intellectual integrity to do the right thing.”

WHEREFORE, Petitioner prays this Court will grant his Motion for Rehearing on his Petition for Writ of Certiorari; and prays this Court will uphold the U.S. Const. and all it stands for in a manner that comports with the intentions of the founding fathers: that it stand for the rights of everyone in the U.S. Mr. Avitable further thanks the Court for any other appropriate relief it may order. Movant “would prefer this Court rule on his Complaint to avoid a further waste of the taxpayers’ money, but understands this Court is very busy and may not have the time. Petitioner just does not believe the Wyo. Courts are capable of providing justice anymore and asks that if this Court remands the case, it do so to an un-conflicted court.”

Declaration Under Penalty Of Perjury

I declare under penalty of perjury pursuant to W.S. 6-5-301; 28 USC 1746; 18 USC 1621 that the above information contained in the foregoing Motion is true and correct to the best of my knowledge, recollection and understanding. The use of a Notary is only used as a means of identifying me as the signatory. I place my hand as seal upon this document on the date below.

Sincerely,



Andrew J. Avitable o.s.b., tert.
il Marchese di Monte Bianco

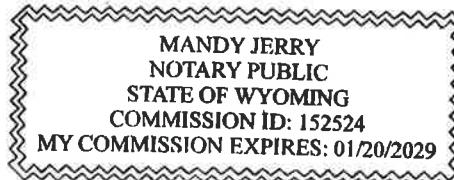


Note: Prepared *pro bono* under *Johnson v. Avery*, 383 US 483, 490 (1969) (prisoners may assist other prisoners with petitions to the court).

WITNESS TO THE HAND AND SEAL

Subscribed and sworn to as being true under the penalty of perjury pursuant to W.S. 6-5-301; 28 USC 1746; 18 USC 1621 by: Andrew Joseph Avitable (known to the WDOC as “Andrew Larson” against his wishes), before me this 10 day of April, 2024. Said individual satisfactorily demonstrated to be the individual whose signature is subscribed hereon, and solemnly affirmed that he has 1st hand knowledge of the facts contained herein and that the facts are true, correct and complete to the to the best of his knowledge, understanding and belief.

State of Wyoming)
) ss.
County of Weston)



Mandy Jerry
Notary Public

1/20/29
My commission expires

Oaths of Office

Oath of Federal Judges Pursuant to the Judiciary Act of 1789:

I do solemnly swear (or affirm), that I will administer justice without respect to persons, and do equally right to the poor and the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent on me, according to the best of my abilities and understanding, agreeably to the Constitution and laws of the United States. [So help me God.]

Federal Judiciary Oaths:

I, (name), do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as (office) under the Constitution and laws of the United States. [So help me God.]

All Officers of the United States other than the President:

I, (name), do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. [So help me God.]

US Armed Forces Enlistment Oath:

I, (state name of enlistee), do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I will obey the orders of the President of the United States and the orders of the officers appointed over me, according to regulations and the Uniform Code of Military Justice. (So help me God)."

Wyoming State Oaths:

I do solemnly swear (or affirm) that I will support, obey and defend the constitution of the United States, and the constitution of the state of Wyoming; that I have not knowingly violated any law related to my election or appointment, or caused it to be done by others; and that I will discharge the duties of my office with fidelity.

Wyoming Constitution Article 1, §20-21 States:

20. Oath of office; form.

Senators and representatives and all judicial, state and county officers shall, before entering on the duties of their respective offices, take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support, obey and defend the constitution of the United States, and the constitution of the state of Wyoming; that I have not knowingly violated any law related to my election or appointment, or caused it to be done by others; and that I will discharge the duties of my office with fidelity.

21. Oath of office; how administered.

The foregoing oath shall be administered by some person authorized to administer oaths, and in the case of state officers and judges of the supreme court shall be filed in the office of the secretary of state, and in the case of other judicial and county officers in the office of the clerk of the county in which the same is taken; any person refusing to take said oath or affirmation shall forfeit his office, and any person who shall be convicted of having sworn or affirmed falsely, or of having violated said oath or affirmation, shall be guilty of perjury, and be forever disqualified from holding any office of trust or profit within this state. The oath to members of the senate and house of representatives shall be administered by one of the judges of the supreme court or a justice of the peace, in the hall of the house to which the members shall be elected.

Oaths of Office

Wyoming Constitution Article 3, §§18-19 State:

18. Who may be impeached.

The governor and other state and judicial officers except justices of the peace, shall be liable to impeachment for high crimes and misdemeanors, or malfeasance in office, but judgment in such cases shall only extend to removal from office and disqualification to hold any office of honor, trust or profit under the laws of the state. The party, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial, judgment and punishment according to law.

19. Removal of officers not subject to impeachment.

Except as hereafter provided, all officers not liable to impeachment shall be subject to removal for misconduct or malfeasance in office as provided by law. Any person appointed by the governor to serve as head of a state agency, or division thereof, or to serve as a member of a state board or commission, may be removed by the governor as provided by law.

The US Constitution states in Article 6:

Article 6. Debts, Supremacy, Oath

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding. The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

Wyoming Statute §9-1-102 states:

§ 9-1-102. Officers of state agencies and specified state employees to file oath and obtain bond; bond requirements.

(a) Before assuming the duties of office, the chief officer or officers of each state agency, office, institution, board and commission, and any other employee of the state specified by the governor, shall take and subscribe the constitutional oath of office and obtain faithful performance and fidelity bond coverage. The oath shall be filed with the secretary of state.

Wyoming Statute §9-1-607 states:

§ 9-1-607. Deputy attorneys general; appointment; qualifications; term; duties; certificate of appointment and oath of office.

(b) When a deputy is appointed the attorney general shall file in the office of the secretary of state a certificate of appointment and the official oath of office of the deputy. The deputy shall not perform any official act until the certificate has been filed.

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1. **TERM:** oath of office. **TEXT:** A qualifying oath, in a form prescribed by statute, of a public officer required, as an incident of office, upon assuming the office. 42 Am J1st Pub Of §7. The qualifying oath of an administrator or executor. **AUTHORITY:** 31 Am J2d Ex & Ad §106.
2. **TERM:** civil conspiracy. **TEXT:** A combination of two or more persons by concerted action to accomplish an unlawful purpose, or a lawful purpose by criminal or unlawful means, to the injury of another. 16 Am J2d Consp §43. To sustain an action, damage must have resulted from the combination. To warrant an injunction, damage must be threatened. **AUTHORITY:** National Fireproofing Co. v Mason Builders' Asso. (CA2 NY) 169 F 259.
3. **TERM:** commit. **TEXT:** 1. To make a commitment; to perpetrate, as to commit burglary. 2. Under the statute making it an offense to conspire to "commit" an offense against the United States, the word means no more than "bring about." It is not necessary that the conspiracy contemplate that the conspirators or some of them shall themselves directly break the law. It is quite sufficient if the conspiracy contemplates that that shall be done which does violate the law.
4. **TERM:** common intent. **TEXT:** The intent of two or more persons acting in concert to commit a specific crime, or to commit acts from which the law will infer a community of intention. Regina v Doddridge (Eng) 8 Cox CC 335. The corrupt intent existing in the minds of the parties to a conspiracy. **AUTHORITY:** 16 Am J2d Consp §9.
5. **TERM:** confederacy. **TEXT:** A union of people, groups of people, even nations, for a common purpose; a union of people for an unlawful purpose, a conspiracy. **AUTHORITY:** State v Crowley, 41 Wis 271, 284.
6. **TERM:** passive participation. **TEXT:** Something more than a merely passive attitude toward a conspiracy; a passive consent to the object of the conspiracy and concurring with the purposes of the other conspirators, although actually standing by while the others put the conspiracy into effect. **AUTHORITY:** O'Neil v State, 237 Wis 391, 296 NW 96, 135 ALR 719. **TERM:** passive receivership.
7. **TERM:** unlawful conspiracy. **TEXT:** A criminal offense, indictable at common law where two or more persons confederate and combine together, by concerted means, to do that which is unlawful or criminal, to the injury of the public, or portions or classes of the community, or even to the rights of an individual. **AUTHORITY:** Beck v Railway Teamsters' Protective Union, 118 Mich 497, 77 NW 13.
8. **TERM:** conspiracy. **TEXT:** An agreement between two or more persons to accomplish together a criminal or unlawful act or to achieve by criminal or unlawful means an act not in itself criminal or unlawful. 16 Am J2d Consp §1. Conspiracy is a criminal offense, a misdemeanor in some jurisdictions, a felony in others. 16 Am J2d Consp §§2, 3. Conspiracy is also a wrong which will constitute a cause for a civil action. 16 Am J2d Consp §43. The cause of action is the damage suffered. It is the civil wrong resulting in damage, and not the conspiracy which constitutes the cause of action. **AUTHORITY:** Mox, Inc. v Woods, 202 Cal 675, 262 P 302.
9. **TERM:** conspirators. **TEXT:** Persons who participate in a conspiracy.
10. **TERM:** Ku Klux Act. **TEXT:** A federal statute which creates a civil liability for conspiracy interfering with civil rights. **AUTHORITY:** 42 USC §1985(3); 15 Am J2d Civ R §16.
11. **Ku Klux Klan Act**, Civil Rights Act of 1871, or Force Act of 1871
The Enforcement Act of 1871 (17 Stat. 13), also known as the Ku Klux Klan Act, Third Enforcement Act, Third Ku Klux Klan Act, Civil Rights Act of 1871, or Force Act of 1871, is an Act of the United States Congress which empowered the President to suspend the writ of habeas

Conspiracy Appendix

corpus to combat the Ku Klux Klan (KKK) and other white supremacy organizations. The act was passed by the 42nd United States Congress and signed into law by United States President Ulysses S. Grant on April 20, 1871. The act was the last of three Enforcement Acts passed by the United States Congress from 1870 to 1871 during the Reconstruction Era to combat attacks upon the suffrage rights of African Americans. The statute has been subject to only minor changes since then, but has been the subject of voluminous interpretation by courts.

The Enforcement Acts were three bills passed by the United States Congress between 1870 and 1871. Passed under the presidency of Ulysses S. Grant, the laws also allowed the federal government to intervene when states did not act to protect these rights. The acts passed following the ratification of the Fourteenth Amendment to the US Constitution, which gave full citizenship to anyone born in the United States or freed slaves, and the Fifteenth Amendment.

The Enforcement Act of 1871, the third Enforcement Act passed by Congress and also known as the Ku Klux Klan Act (formally, "An Act to enforce the Provisions of the Fourteenth Amendment to the Constitution of the United States, and for other Purposes"), made state officials liable in federal court for depriving anyone of their civil rights or the equal protection of the laws. It was passed at the request of Ulysses S. Grant.

In 1964, the United States Department of Justice charged eighteen individuals under the Enforcement Act of 1870, with conspiring to deprive Michael Schwerner, James Chaney, and Andrew Goodman of their civil rights by murder because Mississippi officials refused to prosecute their killers for murder, a state crime. While the Supreme Court limited the Act, they did not fully repeal it. The resulting case, United States v. Price, would stand because state actors were involved.

The Civil Rights Act of 1875, sometimes called the Enforcement Act or the Force Act, was a United States federal law enacted during the Reconstruction era. The bill was passed by the 43rd United States Congress and signed into law by United States President Ulysses S. Grant on March 1, 1875. The act was designed to "protect all citizens in their civil and legal rights", providing for equal treatment in public accommodations and public transportation and prohibiting exclusion from jury service. It was originally drafted by Senator Charles Sumner in 1870, but was not passed until shortly after Sumner's death in 1875. The Civil Rights Act of 1875 was the last federal civil rights law enacted until the passage of Civil Rights Act of 1957. Parts of the Civil Rights Act of 1875 were later re-adopted in the Civil Rights Act of 1964 and the Civil Rights Act of 1968, both of which cited the Commerce Clause as the source of Congress's power to regulate private actors.

The Civil Rights Act of 1964 (Pub.L. 88-352, 78 Stat. 241, enacted July 2, 1964) is a landmark civil rights and labor law in the United States that outlaws discrimination based on race, color, religion, sex, national origin, and later sexual orientation and gender identity. It prohibits unequal application of voter registration requirements, racial segregation in schools and public accommodations, and employment discrimination. The act "remains one of the most significant legislative achievements in American history".

Initially, powers given to enforce the act were weak, but these were supplemented during later years. Congress asserted its authority to legislate under several different parts of the United States Constitution, principally its power to regulate interstate commerce under Article One (section 8), its duty to guarantee all citizens equal protection of the laws under the Fourteenth Amendment, and its duty to protect voting rights under the Fifteenth Amendment.

The Civil Rights Act of 1968 (Pub.L. 90-284, 82 Stat. 73, enacted April 11, 1968) is a landmark law in the United States signed into law by United States President Lyndon B.

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Johnson. Since 1988, the act protects people with disabilities and families with children; Pregnant women are also protected from illegal discrimination because they have been given familial status with their unborn child being the other family member. Victims of discrimination may use both the 1968 act and the 1866 act's section 1983 to seek redress. The 1968 act provides for federal solutions while the 1866 act provides for private solutions (i.e., civil suits). The act also made it a federal crime to "by force or by threat of force, injure, intimidate, or interfere with anyone... by reason of their race, color, religion, or national origin, handicap or familial status."

12. 18 USCS §241: Conspiracy against rights.

If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

If two or more persons disguise on the highway, or on the premises of another, with intent or hinder his free exercise or enjoyment of any right or privilege so secured - -

They shall be fined under this Title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this Title or imprisoned for any term of years or for life, or both, or may be sentenced to death.

13. 18 USCS §242: Deprivation of rights under color of law.

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or the Laws of the United States, or to different punishments, pains, or penalties on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this Title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this Title or imprisoned not more than ten years, or both; and if death results from the act committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this Title, or imprisoned for a term of years, or for life, or both, or may be sentenced to death.

14. 42 USCS §1985: Conspiracy to interfere with civil rights.

(3) Depriving persons of rights or privileges. If two or more persons in any State or Territory conspire, or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws, or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice-President, or as a member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy,

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whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators.

15. 42 USCS §1986. Action for neglect to prevent conspiracy

Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in the preceding section [42 USCS 1985], are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action, and if the death of any party be caused by any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefor, and may recover not exceeding five thousand dollars damages therein, for the benefit of the widow of the deceased, if there be one, and if there be no widow, then for the benefit of the next of kin of the deceased. But no action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued.

16. 42 USCS §1987: Prosecution of violation of certain laws.

The district attorneys [United States Attorneys], marshals, the commissioners [magistrate judges] appointed by the court [district] and territorial courts, with power to arrest, imprison, or bail offenders, and every other officer who is especially empowered by the President, are authorized and required, the expense of the United States, to institute prosecutions against all persons bailed, for trial before the court of the United States or the territorial court having cognizance of the offense.

CERTIFICATE OF GOOD FAITH

I, Andrew J. Avitable, "Larson" under coercion only, am the Petitioner/Movant in the attached case and filing. I swear that I am presenting this Motion for Rehearing is limited to Intervening Circumstances of Substantial and/or Controlling Effect and/or Other Substantial Grounds not Previously Presented as I understand them to be. I believe that I am entitled to a fair review of the information contained within my original Petition and this Motion for Rehearing by the U.S. Supreme Court. I also swear that this filing is prepared in good faith and not for delay. I also swear that everything contained within my filings are true and correct to the best of my knowledge, recollection and understanding under the penalty of perjury.

Sincerely,



Andrew J. Avitable o.s.b., tert.
il Marchese di Monte Bianco
c/o WDOC – 23916 – WHCC
P.O. Box 160
Newcastle, WY 82701



CERTIFICATE OF SERVICE

I swear that I mailed true and correct copies of the enclosed Document(s), first class mail and postage prepaid, to the following persons and entities, on this 12 day of April 2024, in compliance with the Court's Rules regarding service upon my opponent and the Mailbox Rule.

Wyoming Attorney General
123 Capitol Building
200 W. 24th Street
Cheyenne, WY 82002

Enclosed copy of: edited Motion for Rehearing en banc with Certifications

Sincerely,



Andrew J. Avitable o.s.b., tert.
il Marchese di Monte Bianco
c/o WDOC – 23916 – WHCC
P.O. Box 160
Newcastle, WY 82701



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