

23-7081

ORIGINAL

UNITED STATES SUPREME COURT

JAN 29 2024

OFFICE OF THE CLERK
SUPREME COURT, U.S.

ELIAS MAKERE, FSA, MAAA
(Petitioner)

v.

HON. E. GARY EARLY, ALJ
(Respondent)

On Petition for Writ of Certiorari
to the
Eleventh Circuit Court of Appeals (US)

PETITION FOR WRIT OF CERTIORARI

Elias Makere, FSA, MAAA
Petitioner ("Civilian X")
PO Box 324
Hobart, IN 46342
P: 904.294.0026
E: Justice.Actuarial@gmail.com
W: TextBookDiscrimination.com
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January 29, 2024

QUESTION PRESENTED

1. Are judges immune (from civil prosecution) when performing clerical tasks (eg, Xeroxing transcripts/etc.)?
2. Are judges immune (from civil prosecution) when performing ministerial tasks (that are outside of their jurisdiction/authority)?

UNITED STATES SUPREME COURT

Makere v Early, 24-####

**LIST OF PARTIES
AND CORPORATE DISCLOSURE STATEMENT**

Parties:

Early, Hon. E. Gary Respondent/Appellee/Defendant

Makere, Elias Petitioner/Appellant/Plaintiff

Petitioner is not a subsidiary/affiliate of a publicly owned corporation. Moreover, Petitioner is not a corporation (Rule 29.6 Sup. Ct. R.). Pursuant to Rule 26.1-2 11th Cir. R.,^{1/} Petitioner does not know of any other entities that have interest in this case. Appellant hereby certifies that this corporate disclosure statement is complete.

LIST OF PROCEEDINGS

Trial Court Proceedings:

Makere v Early

US District Court, Florida, Northern District
4:21-cv-000096

Appellate Court Proceedings:

Makere v Early

Eleventh Circuit Court of Appeals (US)
21-11901

Makere v Early

Eleventh Circuit Court of Appeals (US)
22-13613

may these supreme judges envelop
specific items of [every judge's]
immunity so that those-being-judged
can develop vaccines for the
judiciary's virus.

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RULES

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STATUTES (FEDERAL)

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42 USC §1985	iv

STATUTES (STATE)

§120.57 FS	3
§760.11 FS	1
§837.06 FS	2

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1 st Amendment (US)	iv
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ABBREVIATIONS

ALJ	Administrative Law Judge
FCHR	Florida Commission on Human Relations
LT	Lower Tribunal
FS	Florida Statutes
USFLND	US District Court, Florida, Northern District

JURISDICTIONAL BASIS

Introduction

Petitioner, Elias Makere, was the Appellant/Plaintiff in the lower tribunals; and will be referred to in this petition as "Civilian X" (Rule 28(d) Fed. R. App. P.).^{1/} Respondent, Hon. E. Gary Early, was the Appellee/Defendant below; and will be referred to as "Judge Y".

Timeliness

This Petition is timely.

On October 30, 2023, the Eleventh Circuit Court of Appeals entered its opinion [in the base below]. Today (ie, January 29, 2024) marks the 90th day since that opinion was rendered (please see Rule 30 Sup. Ct. R.). Thus, by filing it today, Civilian X has met this Court's time constraint (please accord electronic filing via the 11th Circuit - see Zipes v Trans World, 455 US 385 (1982)).

CONSTITUTIONAL PROVISIONS/STATUTES

- 1st Amendment of the US Constitution
- 7th Amendment of the US Constitution
- 14th Amendment of the US Constitution
- 42 USC §1983
- 42 USC §1985
- Judicial Immunity

STATEMENT OF THE CASE

1. This is a civil rights case (under 42 USC §1983) between a civilian (ie, Petitioner/'Civilian X') and a state hearing officer (ie, Respondent/'Judge Y'). Civilian X charged Judge Y with violating Civilian X's constitutional rights while Judge Y operated under the *color of state law*.
2. Judge Y, a Florida public official, was an Administrative Law Judge ("ALJ") at all times material hereto. The two most prominent acts that Civilian X charged him with were:
 - a. destroying evidence; and
 - b. committing perjury.
3. In order to understand how/why the two parties had occasion to interact, we must first review the preceding dispute (briefly). An employment discrimination lawsuit between Civilian X and Allstate Insurance Company ("Allstate").

Impetus for Party Interaction (Civilian X v Allstate)

4. On June 30, 2017, Civilian X filed an employment discrimination complaint with the Florida Commission on Human Relations ("FCHR"). Pursuant to §760.11(1) FS, he alleged that his former employer (Allstate) had violated his civil rights on the bases of race and sex.
5. During the State of Florida's administrative gauntlet - and after a series of irregularities (ie, authority breaches;

deposition sit-ins; etc.) - Judge Y became the administrative hearing officer over Civilian X's Case.

6. Despite the procedural incongruities, the facts/evidence continued to develop in Civilian X's favor; heavily. To [momentarily] put it briefly: Civilian X's lawsuit against Allstate presented a textbook case of employment discrimination.
7. A textbook case which - unfortunately - ran counter to widespread propaganda (as foretold by the Ku Klux Klan itself; and its progenies). Faced with these probative facts, Judge Y went on the attack.

Judge Y's Unlawful Conduct

8. Circa January 2019, Judge Y intercepted a trial transcript, and scanned it. He did so in order to remove a crucial page; one which pointed to Allstate's guilt.
9. A few months later, Judge Y upped the ante by outright committing perjury (pursuant to §837.06 FS). On April 18, 2019, Judge Y entered his Recommended Order ("RO").
10. The first page of the RO had a section titled "*Statement of the Issue*". Where Judge Y excluded Civilian X's sex discrimination charge.
11. The second page of the RO had a section titled "*Preliminary Statement*". Wherein Judge Y committed his perjury.

Ultimate Facts

12. Judge Y broke the law in his quest to deny Civilian X a full & fair opportunity to litigate his case [against Allstate]. Judge Y:
- a. destroyed evidence; and
 - b. committed perjury
13. Importantly, Judge Y was not performing a judicial function when he scanned/photocopied the trial transcript (§8 *supra*).
14. Plus, Judge Y did not have the statutory authority to issue either of those two statements (§10-11). §120.57(1)(k) FS does not give any state ALJ the power to draft a "*Statement of the Issue*" or a "*Preliminary Statement*".
15. In short, the force & effect of Judge Y's illegal/unlawful acts (ie, evidence destruction and perjury) has had a harmful impact on Civilian X's ongoing lawsuit against Allstate.

Procedural History

16. Given the harm that Judge Y's unlawful conduct inflicted, Civilian X filed civil rights charges against him. Doing so on-or-around February 16, 2021; and under 42 USC §1983 (ie, the '*Ku Klux Klan Act of 1871*').
17. On April 6, 2021, the District Court (ie, USFLND) processed Civilian X's filing fee. Yet, three days later, it also recommended dismissal; doing so on the [erroneous] basis of an

absent filing fee. So, Civilian X appealed the decision [to the 11th Circuit Court of Appeals].

18. On December 31, 2021, Civilian X won his appeal.

19. On April 7, 2022, importantly, the 11th Circuit Court of Appeals deemed Civilian X's lawsuit [against Judge Y] to be one of "first impression".

20. Despite that, though, the District Court repeated its dismissal; doing so on the basis of judicial immunity. On October 30, 2023, the 11th Circuit affirmed the District Court's dismissal. Thus, this *Petition for a Writ of Certiorari* ensued.

ARGUMENT IN SUPPORT OF A WRIT OF CERTIORARI

21. This Court is well-positioned to grant this writ, because the decision below is in conflict with: (a) logic; and (b) supreme court precedence.

The Appellate Decision Lacked Logic

22. The 11th Circuit's affirmation defied logic by dismissing a case that it had already deemed to be one of "first impression". As Supreme Court precedent has long established (please see *Ashcroft v Iqbal*, 556 US 662 (2009); and *Bell v Twombly*, 550 US 544 (2007)) case dismissal is an 'extreme sanction' that is only appropriate when precedent precludes litigation.

23. Since the 11th Circuit certified (via "first impression") that there was no precedent for Judge Y's illegalities, the 11th Circuit's subsequent affirmation was an illogical contradiction.

24. Such illogic equates to a departure from the essential requirements of law. An important tenet that this Court has the power to act on (Rule 10(a) Sup. Ct. R.).

"...in determining whether there was a 'departure from the essential requirements of law' reviewing courts have inquired: (1) whether the lower court proceeded 'according to justice' or deprived the petitioner of fundamental rights, resulting in serious and material injury or gross injustice..."

- Haines v Heggs, 658 So.2d 523 (Fla. 1995)

25. Thus, Petitioner hereby asks this Supreme Court to grant certiorari on the grounds of the 11th Circuit's infected decision. Especially considering its second rogue contagion.

The Appellate Decision Defied Supreme Court Precedent

26. Neither of Judge Y's non-judicial acts provide him immunity from suit.

27. The record is clear that Judge Y was not performing a judicial act when he destroyed the trial transcript. It was a clerical, ministerial task; one which is typically performed by non-judges. In fact, Judge Y even admitted that he was performing a ministerial task. He made that admission in his appellate brief.

28. The record is also clear that Judge Y was not performing a judicial act when he committed perjury. He was doing a clerical/ministerial task; one which he did not even have the statutory authority to perform. In fact - and like before (§27 *supra*) - Judge Y admitted that he was performing a ministerial task.

29. Of course, this Court has made it clear that ministerial/clerical tasks are not judicial acts (highlights added):

"In such cases, it surely is not a judicial act, in any such sense as is contended for here. It is merely a ministerial act"

- Ex Parte Virginia, 100 US 339

30. Appellate circuits have long held that non-judicial acts do not receive immunity (highlights added):

"A judge is absolutely immune from a section 1983 suit for damages only for (a) judicial acts"

- Lerwill v. Joslin, 712 F.2d 435 (10th Cir. 1983)

31. Thus, this case gives this Supreme Court the occasion to declare whether these specific non-judicial acts are indeed nonjudicial.


32. And Civilian X hereby asks this Court to do just that; by granting certiorari review (and a subsequent full briefing).

CONCLUSION

WHEREFORE, Petitioner (Civilian X) respectfully asks this Court to issue a writ of certiorari to review the 11th Circuit Court of Appeal's aforementioned opinion.

Dated this 29th day of January 2024.

Respectfully submitted,

 /s/ Elias Makere
ELIAS MAKERE, FSA, MAAA
Petitioner/Appellant/Plaintiff ("Civilian X")
PO Box 324
Hobart, IN 46342
P: (904) 294-0026
E: justice.actuarial@gmail.com
W: TextBookDiscrimination.com
Get **Booked Up** on Justice!

CERTIFICATE OF COMPLIANCE

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2. Typeface and Type-Style



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1/29/2024

Date



/s/ Elias Makere

Elias Makere, FSA, MAAA

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of January 2024, I electronically filed the foregoing with the Clerk of Courts by using PACER; which will send a notice of electronic filing to the attached service list (Rule 29 Sup. Ct. R.).



/s/ Elias Makere

Endnotes:

1/

Petitioner cites this/these external local rules as persuasive authority only.
Petitioner is aware that this court has its own set of local rules.

Electronic Copy: (text-searchable)

[TextBookDiscrimination.com/Files/CA11/22013613 P 20240129 221410.pdf](http://TextBookDiscrimination.com/Files/CA11/22013613_P_20240129_221410.pdf)

Link to Underlying Complaint ([HTML](#), [PDF](#), [Video](#))

HTML	TextBookDiscrimination.com/Info/Misc/ALJPerjury/Complaint-Amended.html
PDF	TextBookDiscrimination.com/Files/USFLND/21000096 AAC 20211231 123954.pdf
Video	https://youtu.be/ RaJXFfXOCE

Link to Originating Case ([HTML](#), [PDF](#), [Video](#)) | *Makere v Allstate*

HTML	TextBookDiscrimination.com/Allstate/Complaint-Full.html
PDF	TextBookDiscrimination.com/Files/USFLMD/20000905 AAC 20211104 230439.pdf
Video	https://youtu.be/e3mgBPHesXg

SERVICE LIST

Charles J.F. Schreiber, Jr.
Senior Assistant Attorney General

T: 850.414.3672
E: Charles.Schreiber@MyFloridaLegal.com

Office of the Attorney General
The Capitol PL-01
Tallahassee, FL 32399

(*appearing on behalf of*
Respondent/Appellee/Defendant/"Judge Y")
