23-7186

No.

IN THE

Supreme Court of the United States

ANTHONY ROLAND,

Petitioner,

-v.-

UNITED STATES DEPARTMENT OF JUSTICE,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Why should the law refuse its protection on law-abiding Citizens? From the perspective of an African American Pro Se unfortunately, I ask myself this question while architecting my lawsuit. I found out that Judges are too often unwilling to listen to facts and reasons, but rather discreetly showing favoritism or special liking on one side but of course, denying it with decorative law terminologies. When Judge ignores facts and reasoning they destroy the regulations of the judicial system which in turn destroys faith in the judicial system. Perhaps it would benefit the judicial system and restore faith in everyday Citizens if they use the sworn oath concept of *Lady Justice* ignoring predilections and focusing on facts.

This petition presents the following question closely interwoven within the Fourteenth Amendment, that metamorphosis towards Due Process of Federal Rules of Civil Procedure.

The Question Presented is:

Whether permitted by Due process shall a ruling and proceeding take place ***without*** a "Meet and Confer"? Eventually causing abstract or ambiguous adjudication.

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Petitioner Anthony Roland respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Seventh Circuit.

OPINIONS BELOW

The Opinions of the United States Court of Appeals for the Seventh Circuit were entered on November 29, 2023 (App. 1a - 3a). The United States District Court for the Northern District of Illinois Opinion was entered on March 15, 2023 (App. 4a - 5a). These Opinions have not been designated for publication.

JURISDICTION

The Seventh Circuit entered judgment on November 29, 2023, and denied rehearing *en banc* on February 09, 2024 (App. 6a).

This court has jurisdiction pursuant to 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fourth Amendment to the U.S. Constitution provides:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Section 1 of the Fourteenth Amendment to the U.S. Constitution provides:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State Shall make or enforce any law which shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of law; nor deny to any person within its jurisdiction the equal protection of the laws.

FISC 50 U.S. Code § 1806 (f), provides in the relevant part:

(f) In Camera and Ex Parte Review by District Court. Whenever a court or other authority is notified pursuant to subsection (c) or (d), or whenever a motion is made pursuant to subsection (e), or whenever any motion or request is made by an aggrieved person pursuant to any other statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain applications or orders or other materials relating to electronic surveillance or to discover, obtain, or suppress evidence or information obtained or derived from electronic surveillance under this chapter, the United States district court or, where the motion is made before another authority, the United States district court in the same district as the authority, shall, notwithstanding any other law, if the Attorney General files an affidavits under oath that disclosure or an adversary hearing would harm the national security of the United States, review in camera and ex parte the application, order, and such other materials relating to the surveillance as may be necessary to determine whether the surveillance of the aggrieved person was lawfully authorized and conducted. In making this determination, the court may disclose to the aggrieved person, under a protective order, or other materials relating to the surveillance only where such disclosure is necessary to make an accurate determination of the legality of the surveillance.

STATEMENT OF THE CASE

This case presents the question of whether there was a violation of the Petitioner's Due process rights by omitting a "Meet and Confer" but still allowing the case to proceed until Granting the Government both a Protective Order and Summary Judgment on the same day, despite several Dispute of Material Facts.

First, the Petitioner would like to point out that his lawsuit went in an unorthodox direction because the parties never met and conferred to properly discuss Roland's allegations. Nevertheless, the Government Motion for summary judgment was granted

erroneous See, e.g., SSMiller IP LLC v. Sugar Beets LLC, 2-22-cv-02576 (CDCA Oct. 21, 2022) District Judge George H. Wu of the Central District of California denied the plaintiff's motion to dismiss because it found the parties did not sufficiently meet and confer as required by the Local Rules.

The Petitioner Roland Objected to the Government's motions partly due to issues of an absent Conference. The Petitioner in addition motioned the court for an Evidentiary Hearing to show "*good faith*" towards Preliminary Injunction Relief from unlawful Electronic Surveillance which is a part of state-secret privilege See, e.g., Fazaga v. FBI, 965 F.3d 1015 (9th Cir. 2020).

A state-secret is information that is owned by the government and is of a military or diplomatic nature. If this information is revealed, it could be a threat to the national defense or diplomatic interests of the United States. The disclosure of state-secrets would be contrary to the public interest. In a state-secret case, a judge may order the court to exclude Classified evidence resulting in a dismissal See, e.g., Totten v. United States, 92 U.S. 105, 23 L.ED. 605 (1875). However, Roland's case was never dismissed under state secrets privilege by requesting a Preliminary Injunction Relief from electronic surveillance but instead dismissed on frivolous allegations.

BACKGROUND

Petitioner Roland witnessed around the beginning of 2013 lots of unnecessary Terry stops by Police officers in different municipalities, while out doing different errands, same time noticing a gathering of several FBI (Federal Bureau of Investigation) agents arriving a few minutes after different public events to the point of stalking, and just as Roland became suspicious of the activities whistleblowers started explaining to the Petitioner that he is under surveillance to the point of living inside of a Glasshouse. The whistleblowers then encouraged him to file a complaint in court, some of the John Does and Jane Does even left business cards or wrote down their e-mail addresses for deposition purposes.

The Petitioner had zero knowledge of jurisprudence so Roland wrote lengthy letters to both the District and State Attorney's Office followed by visits, asking their staff if they could do an investigation that involved Fourth Amendment violation of privacy. Roland's complaints were ignored this circumstance drove him to lose his job which forced him to live at the Salvation Army. After Roland Graduated the year of 2018, he was still in rage by unlawful surveillance and lack of protection from the law. Roland went back to the State Attorney's office but this time weirdly offered a sit-down by former Attorney General Lisa Madigan's staff and they explained that their office does not cover privacy violations and then escorted him out later their office sent a letter concluding his complaint. Curious about Illinois privacy policy Roland researched the ***Illinois Constitution*** right there in boldface lettering Article 1 of Section 6 explains: "The people shall have rights to be secure in their person, houses, papers, and other possessions against unreasonable searches, seizures, invasions of PRIVACY or interceptions of communications by eavesdropping devices or other means." The discovery provided a route for Roland to continue to explore the Judicial System law.

That same year of 2018 whistleblowers continue to inform him of his privacy violations done by the Government along with Affidavits. Roland decided to seek help from different

law firms simultaneously scheduling appointments with the Illinois Inspector General's Office and writing letters to the U.S. DOJ (Dept. of Justice) Inspector General's Office. Roland didn't receive any help from the law firms nor was invited to the Illinois Inspector General's office but a letter came from the U.S. DOJ Inspector General's Office explaining that there wasn't a need for an investigation. Roland was left with no choice but to take the matter into his own hands and started writing complaints at the Northern District Court but without any knowledge of how lawsuits worked the court dismissed his claims. The year of 2021 Roland stumbled across a lawsuit similar to his complaint See, Carter Page v. U.S. DOJ 19-03149 that's when he began learning the steps of litigation. Mr. Page was successful in gathering several unwarranted FISA (Foreign Intelligence Surveillance Act) Applications because of an **In-camera review** done by the Court See, e.g., United States v. Reynolds 345 U.S. 1 (1953) in which Government Documents were disclosed to allow an investigation.

Roland's research of the Carter Page lawsuit helped to improve his litigation skills and in March of 2022 at the Northern District Office Roland handed in a completed complaint this time with Summons, ESI (Electronically Stored Information), and Affidavits in support of witnesses eager to offer their corroboration See, Anthony Roland v. DOJ Case No. 22-cv-1066.

DISTRICT COURT PROCEEDINGS

On March 01, 2022, Plaintiff Mr. Roland Filed a claim against the U.S. Department of Justice under the Fourth Amendment as an "aggrieved person" in the context to disclose unwarranted Orders pursuant to 18 U.S.C. § 2703 and 50 U.S.C. § 1806(f). The plaintiff brought/brings his Fourth Amendment litigation as an individual requesting Injunctive Relief from ***electronic surveillance***.

On May 13, 2022, *(Doc. 24)* the Honorable Judge Dow Order parties to Meet and Confer "A requirement in some jurisdictions that parties to suit must meet and discuss various matters and attempt to resolve disputes without court action" According to the Legal Information Institute also Dow Order parties to file a Joint Status Report.

On June 06, 2022 *(Doc. 30)* the Article III judge reviewed the Joint Status Report, and in that Report, Roland requested a In camera and Ex parte proceeding of unwarranted electronic surveillance. *App. 9a at ¶ 4.* The judge transferred the case over to Magistrate Judge Young B. Kim for a status hearing which was scheduled for July 01, 2022, at 11:30 a.m. via phone.

On July 01, 2022 *(Doc. 33)* despite Roland's failed attempts to establish a "Meet and Confer" an erroneous status hearing still was held via phone. Judge Kim in the hearing explained that the Government **SURPRISINGLY** wanted a protective order. *Transcript App. 13a at ¶¶ 17-22.* Plaintiff eagerly Objected to Magistrate Judge Kim's translation of the statement made by the DOJ (Department of Justice) Lead Council Nigel Cooney because it conflicts with Fed. R. Civ. P. 26(c)(1).

On September 12, 2022 *(Doc. 41)* the Magistrate Judge granted the defendant's motion for a protective order. Confused about the Magistrate Judge M&O. App. 19a - 23a. Because there was never a "Meet and Confer" after several attempts before the conference and after,

Roland even sent an email. See, App. 24a. Therefore, Roland Appealed to an Article III Judge requesting a reverse of Judge Kim's Order.

On November 13, 2022 *(Doc. 47)* Plaintiff's case was assigned to Article III Judge Martha M. Pacold.

On November 14, 2022 *(Doc. 48)* the Magistrate Judge Granted the Government motion for a Summary Judgment conflicting with 28 U.S.C. § 636 Statute. Roland found himself Objecting to both Magistrate Judge Kim's Protective Order and Summary Judgment with a motion to admit Evidence and witnesses' affidavits to establish an Evidentiary Hearing. App. 25a - 31a.

On March 15, 2023 *(Doc. 76)* Judge Martha Pacold denied Plaintiff's motions to admit evidence and mooted his petition attached motion for an 1806(f) *In camera and ex parte* proceeding *(Doc. 60-61)* without reasons. Pacold granted both the Government Motion for a Protective Order and Summary Judgement all on the same day, despite Roland's several disputes on Material Facts *(Doc. 62)* Judge Pacold's Opinion was "That the claim is fantastical, unsupported and because Plaintiff Roland failed to exhaust administrative remedies by not appealing the FOIA/PA (Freedom of Information Act / Privacy Act) on obtaining documents relating to the Government's unlawful electronic surveillance this civil case is terminated."

THE PANEL'S DECISION

The Seventh Circuit Panel affirmed the district court decisions **1.** That the Plaintiff / Appellant's Electronic Surveillance complaints were frivolous; **2.** Plaintiff / Appellant did not exhaust administrative remedies in FOIA/PA (Freedom of Information/Privacy Act) a filing prerequisite, and; **3.** The Plaintiff had no rights to a counsel.

First, the Appellant believes that his complaint went in the wrong direction because he was never allowed a 26(f) conference which if given would have led toward laying a proper foundation in proving his case. Furthermore, the 26(f) conference would have allowed Roland a chance to explain or ***amend*** the so-called frivolous complaint. In any event, the Government never motioned or gave any clear reason on why Roland's case was frivolous.

Second, the Plaintiff reported his allegations to Local and Federal Government Officials: the Illinois State Attorney Office both the former and present Attorney General, the Former State's Attorney for Cook County Anita Alvarez, and the U.S. DOJ Inspector General Office. App. 32a - 35a. Since his complaints were ignored the exhaust administrative remedies were met See, e.g., Dupree v. Younger, No. 22-210 (4th Cir. 2022).

FOIA/PA policy does not allow allocations on receiving documents about unwarranted electronic surveillance See, 50 U.S.C. § 2510. However, Pro Se Roland Appealed to the OIP (Office of Information Policy) about the NSD (National Security Division). App. 36a. Because of section 50 U.S.C. § 2510 there hasn't been any response, it's like trying to place a circle object inside of a square shape. The Panel should have relied upon in-camera and ex parte proceedings to evaluate the propriety of Roland's FOIA/PA request which is appropriate where documents are classified or involve sensitive matters of national security. See, e.g., Simmons v. United States Dep't of Justice, 796 F.2d 709, 711 (4th Cir. 1986).

REASONS FOR GRANTING THE PETITION

I. THIS CASE PRESENTS AN IMPORTANT QUESTION ON THE DUE PROCESS OF THE FEDERAL RULE OF CIVIL PROCEDURE 26(F) "MEET AND CONFER."

A. The Lower Court Abuse of Discretion by Not Allowing a Proper Conference.

Fed. R. Civ. P. 26(f) describes a conference of two parties (Plaintiff and Defendant) to cooperate and set out a clear plan for the process of discovery. That did not happen in Roland's case despite several failed attempts made on behalf of Roland to meet and discuss the Plaintiff's claims and resolution. The cause and effect resulted in Roland starting every Motion with an Objection that the Government Motions should be denied because the Plaintiff NEVER met and discussed a discovery plan or e-discovery See, e.g., In re Facebook PPC Advertising Litigation in case (2011 WL 1324516 (N.D. Cal. Apr. 6, 2011)).

Facebook refused to participate in a meet and confers to establish an ESI protocol, citing its "rigid, up-front requirements." The court rejected that argument and ordered Facebook into a meet and confer, ruling that "the clear thrust of the discovery-related rules, case law, and commentary suggests that communication among counsel is crucial to a successful electronic discovery process." After all of Roland's Objections from Protective and Summary Motion the Government nor the Court ***ever*** addressed the failed "Meet and Confer" allegations.

If however, a "Meet and Confer" took place proper steps would have been applied and the DOJ (Department of Justice) could have had a clear understanding of the lawsuit by reviewing ESI (Electronic stored Information) and witness depositions. Therefore, understanding that the Plaintiff's claim is not focused on FOIA/PA but having other remedies to determine unlawful electronic surveillance by the Court's Judicial Review Functions pursuant to 50 U.S.C. 1806 *(f) in camera and ex parte* proceeding See, e.g., Al-Haramain v. Obama, 690 F.3d 1089 (9th Cir. 2012). Therefore, the court had no Jurisdiction by Granting the Government Motion for a protective order conflicting with Fed. R. Civ. P. 26(c)(1): "The Protective Order must include a certificate that the movant has in Good Faith conferred or attempted to confer with other affected parties to resolve the dispute without court action." See, e.g., Mikron Industries v. Hurd Windows & Doors Inc. Cause No. C07-0532R SL (W.D. Wash. 2008).

In Mikron Industries, 2008 U.S. Dist. LEXIS 35166 (W.D. Wash. Apr. 21, 2008), the court denied the defendant's motion for a protective order regarding ESI, finding that defendants "failed to discharge their meet and confer obligation in good faith, as required by Fed. R. Civ. P. 26(c)."

The ***question*** before the court is whether a lawsuit should begin and end without a "Meet and Confer"? This Court answer should be a simple *NO* and GVR (Grant, Vacate, Remand) for a correct Fourteenth Amendment Federal Rules of Civil Procedure.

II. THE DISTRICT COURT ADJUDICATION IN GRANTING THE DEFENDANT SUMMARY JUDGMENT WAS ERRONEOUS.

A. Pro Se Did Not Receive Adequate Knowledge on How to Respond to a Summary Judgement Pursuant to Local Rule 56.1.

The Government did not follow Local rule 56.1(a) procedures on serving the *Pro Se* Roland Summary Motion. Pursuant to local rule 56.1 "any party moving for summary judgment against an unrepresented party *(Pro se)* shall serve the unrepresented party with its summary judgment papers and a copy of Federal Rule of Civil Procedure 56 explaining how Plaintiff should respond to the defendant Statement of Material Facts" See, e.g., Timms v. Frank, 953 F.2d 281, 384 (7th Cir. 1992).

However, with the Material Facts Pro se Plaintiff Roland pointed out a few genuine disputes that not only could cause a balance of probabilities in proving his case but that could have been admitted by an Evidentiary Hearing. See, App. 37a – 41a at. ¶¶ 7-8,13,15. All were either Disputed or Controverted pursuant to N.D.Ill. L.R. 56.1 (b)(3)(B). "All material facts set forth in the statement required of the moving party will be deemed to be admitted unless controverted by the statement of the opposing party."

Pro se Roland provided each dispute statement with evidentiary support for the defendant's assertion See, L.R. 56.1 (b)(3)(C). The non-moving party also may present a separate statement of additional facts "Consisting of short numbered paragraphs, of any additional facts that require the denial of summary judgment, including references to the affidavits, parts of the records, and other supporting materials relied upon."

B. District Court Denial of an Evidentiary Hearing for A Preliminary Injunction Relief is an Abuse of Discretion.

Roland Motion the Court to admit video evidence. See, App. 42a. In proving his case still the Judge Granted the government a Protective Order excluding Roland's Evidence is considered an abuse of discretion. The base of Plaintiff e-discovery if admitted would have been supported with C.I.R.A (Competence, Identification, Relevance, Authentication).

Roland Presumption's video evidence of the interactions done with the smart T.V. could have been proven by an evidentiary hearing showing **1.** The recording device was capable of taping the videos; **2.** A competent person operated the device; **3.** The recording authentication with a subpoena for witness; **4.** There have been no modifications to the recordings by an expert; **5.** The speakers in the video can testify; and **6.** The conversation recorded was made voluntarily, in good faith, and without inducement.

Granting the Defendant a summary judgment and excluding Petitioner's statements of evidence conflict with Fed. R. Civ. P. 56. "The court shall grant summary judgment if the movant shows that there are no genuine facts and movant is entitled to judgment as a matter of law."

III. THE SEVENTH CIRCUIT ERRED BY NOT ESTABLISHING A DE NOVO REVIEW.

A. Review is Warranted for the Circuit Court Absent of A 50 U.S.C. § 1806(f) *In camera and Ex Parte* Proceeding.

The Panel affirmed the district court's decisions but there was never a De novo review into the Appellant's disputes on Material Facts that would cause probabilities into more than likely proving his case. Disputes on Material Fact result in the principle of denial of summary judgment and the lawsuit goes to trial, without considering Roland's disputed facts the Panel stands in the way of providing a conceivable right to justice. Excluding all relevant evidence and witnesses from the Appellant case is a resistance to the concept of "The complaint in the light most favorable to the plaintiffs, taking all their allegations as true and drawing all reasonable inference from the complaint in their favor." See, e.g., Doe v. United States, 419 F.3d 1058, 1062 (9th Cir. 2005).

Plaintiff Roland motioned the District Court with an 1806(f) *in-camera and ex parte* proceeding attached with a sealed envelope containing a petition in support of his motion. See, App. 43a - 51a. After the decision from both the District Court and Circuit Court Roland noticed that both dockets were locked from being reviewed (Doc.60-61). Roland placed the Petition inside a sealed envelope only because it had the supporter's personal information. I'm not too sure why the Motion for an 1806(f) was not visible on the Docket is that the Lower Court policy? If by any means, this court should GVR fact finder section 1806(f).

Furthermore, the District Court never gave reasons for mooting Roland 1806(f) *in-camera and ex parte* proceedings maybe because of personal reasons. In any event, the Panel had/has Jurisdiction on 50 U.S.C. § 1806(f) *in camera and ex parte* proceedings to determine unlawful electronic surveillance, and still, the Panel refuses to do an in-camera review into the Appellant presumption without using its Judicial Review, it's like placing a "Don't Touch" sign on top of the Judicial Review Function. The Panel's Opinion on Roland's claim being Frivolous is a hypothesis without proper proceedings because the Government never Motioned the court that the Plaintiff/Appellant Complaint was Frivolous. This Court should grant certiorari to establish a duty to review classified discovery as well as admit Roland's *public evidence* in "good faith" to be **Free** from electronic surveillance.

CONCLUSION

For the foregoing reasons, the Petitioner requests that this Court issue a writ of certiorari to review the judgment of the Seventh Circuit Court of Appeals.

Respectfully Submitted,

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