No. 23A854

IN THE

SUPREME COURT OF THE UNITED STATES

IN RE ANTHONY EARL RIDLEY TYCOON — PETITIONER

vs.

THE STATE OF KANSAS — RESPONDENT(S)

ON PETITION FOR WRIT OF INJUNCTION TO

THE COURT OF APPEALS OF THE STATE OF KANSAS

PETITION FOR WRIT OF INJUNCTION TO JUSTICE KAVANAUGH

ANTHONY EARL RIDLEY TYCOON

P.O BOX 2

LANSING, KANSAS 66043-0002

(913) 727-3235

QUESTION(S) PRESENTED

(1.) Did the Court of Appeals contravene the requirements of the appellate court's standard of review on a motion for a temporary restraining order and preliminary injunction pending an appeal?

A. When a state prisoner failed to use an available state remedy – i.e., a procedure for exhausting administrative remedies – but the state appellate court, nevertheless consider the issue on the merits, is the state prisoner foreclosed from issuance by the Court of an extraordinary writ authorized by 28 U.S.C. § 1651(a)?

B. Assuming that the state appellate court's action doesn't precludes the state prisoner from petitioning the Court for an extraordinary writ authorized by 28 U.S.C. § 1651(a), may the state prisoner submit the factual findings of the United States District Court for the District of Kansas and assert a violation of RLUIPA as a claim or defense and obtain injunction relief?

C. If the district court's findings of fact does not adequately support its final conclusion of law, is the standard which the Court of Appeals use to determine the likelihood of irreparable injury erroneous?

(2.) Did the Court of Appeals apply erroneous standards in evaluating Petitioner's claim of violations of his religious freedom due to his incarceration?

A. Does the Kansas Preservation of Religious Freedom Act in the context of prison environment, guarantee, constitutional rights privileged under the Free Exercise Clause of the First Amendment?

B. Did the Court of Appeals apply the correct standard to determine the likelihood of a substantial burden under Religious Land Use and Institutionalized Persons Act (RLUIPA)?

C. Are the Court of Appeals' de novo factual findings supported by the record?

LIST OF PARTIES

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

SAM BROWNBACK; United States Ambassador at Large for Religious Freedom, LAURA KELLY; Governor of Kansas, JEFFREY ZMUDA; Secretary of Corrections, JAMES HEIMGARTNER; Former Secretary of Corrections, SAM CLINE; Former Warden, KANSAS DEPARTMENT OF CORRECTIONS, CHASE TIPTON; Deputy Director of the Southern Parole Region, KATHERINE HERZBERG; Supervisor of the Wichita Parole Office, CASSANDRA VOGEL; Wichita Parole Officer, ALEXIS OLAVE; Wichita Parole Hearing Officer, RYAN STORCK; Wichita Parole Officer, OLUWATOSIN S. ORUNSOLU, Correctional Supervisor Three, ROBERT F. TURNER; Correctional Supervisor One, JEFF EASTER; Sedgwick County Sheriff; CITY OF WICHITA; and SANDI R; Sedgwick County Adult Detention Facility Chaplain.

RELATED CASES

(1.) State v. Ridley, 421 P.3d 774, 2018 Kan. App. Unpub. LEXIS 511, 2018 WL 3320909 (Kan. Ct. App., July 6, 2018) (unpublished opinion)

(2.) Ridley v. Bd. of Sedgwick Cty. Comm'rs, 2019 U.S. Dist. LEXIS 51504 (D. Kan., March 27, 2019)

(3.) Ridley v. Brownback, 2019 U.S. Dist. LEXIS 79274, 2019 WL 2073924 (D. Kan., May 10, 2019)

(4.) Ridley v. Bd. of Sedgwick County Comm'Rs, 2019 U.S. App. LEXIS 24568 (10th Cir., August 19, 2019)

(5.) Ridley v. Bd. of Cty. Comm'rs, 2020 U.S. LEXIS 2035, 140 S. Ct. 2575, 206 L. Ed. 2d 502 (2020)

(6.) Ridley v. Kansas, 2021 U.S. Dist. LEXIS 201887, 2021 WL 4892919 (D. Kan., October 20, 2021)

(7.) Ridley v. Kansas, 2021 U.S. App. LEXIS 40117, 2021 WL 8314624 (10th Cir., December 13, 2021)

(8.) Ridley v. State, 497 P.3d 1169, 2021 Kan. App. Unpub. LEXIS 630, 2021 WL 5027471 (Kan. Ct. App., October 29, 2021) (unpublished opinion), rev, denied July 1, 2022

(9.) Ridley v. Williams, 2023 U.S. Dist. LEXIS 20701, 2023 WL 1795542 (D. Kan., February 7, 2023)

(10.) Ridley v. Williams, 2023 U.S. App. LEXIS 23076, 2023 WL 5622928 (10th Cir., August 31, 2023)

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF INJUNCTION

Petitioner respectfully prays that a writ of injunction issue to enjoin Executive Branch and Judicial Branch officials imposing irreparable harm to him under K.S.A. § 2017 Supp. 22-3716 and the inadequacy of legal remedy in this proceeding on February 22, 2021.

OPINION BELOW

The opinion of the Court of Appeals of Kansas appears at Appendix A to the petition and is unpublished.

JURISDICTION

The judgment of the Supreme Court of Kansas was entered on February 16, 2024. No petition for rehearing was timely filed in my case. This petition is timely filed within 90 days of the latter date under 28 U.S.C. § 1651(a) as a genuinely extraordinary situation. The jurisdiction of this Court is invoked under U.S. Const. art. III, § 2, 28 U.S.C. § 1651(a), 42 U.S.C § 2000cc-2(a) & 28 U.S.C. § 1257. 28 U.S.C. § 2403(a) may apply.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution Article III., Section 2, states: In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

United States Constitution, Amendment I states: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

United States Constitution, Amendment XIV, section 1 provides in part: ". . . No State shall deprive any person of life, liberty, or property, without due process of law . . ."

Title 28, United States Code Section 1651 provides in pertinent part: "(**a**) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

(**b**) An alternative writ or rule nisi may be issued by a justice or judge of a court which has jurisdiction."

Title 28, United States Code Section 2283 states: A court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments.

Title 42, United States Code Section 2000cc provides in pertinent section:

(**§ 2000cc-1**). ***Protection of religious exercise of institutionalized persons***

(**a**) **General rule**. No government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution, as defined in section 2 of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997), even if the

burden results from a rule of general applicability, unless the government demonstrates that imposition of the burden on that person—

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

(b) Scope of application. This section applies in any case in which—

(1) the substantial burden is imposed in a program or activity that receives Federal financial assistance; or

(2) the substantial burden affects, or removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes.

(§ 2000cc-2). ***Judicial relief***

(a) **Cause of action**. A person may assert a violation of this Act as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

(b) **Burden of persuasion**. If a plaintiff produces prima facie evidence to support a claim alleging a violation of the Free Exercise Clause or a violation of section 2 [42 USCS § 2000cc], the government shall bear the burden of persuasion on any element of the claim, except that the plaintiff shall bear the burden of persuasion on whether the law (including a regulation) or government practice that is challenged by the claim substantially burdens the plaintiff's exercise of religion.

(c) **Full faith and credit**. Adjudication of a claim of a violation of section 2 [42 USCS § 2000cc] in a non-Federal forum shall not be entitled to full faith and credit in a Federal court unless the claimant had a full and fair adjudication of that claim in the non-Federal forum.

(g) **Limitation**. If the only jurisdictional basis for applying a provision of this Act is a claim that a substantial burden by a government on religious exercise affects, or that removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes, the provision shall not apply if the government demonstrates that all substantial burdens on, or the removal of all substantial burdens from, similar religious exercise throughout the Nation would not lead in the aggregate to a substantial effect on commerce with foreign nations, among the several States, or with Indian tribes.

Kan. Const. B. of R. § 1 states:

All men are possessed of equal and inalienable natural rights, among which are life, liberty, and the pursuit of happiness.

Kan. Const. B. of R. § 2 states:

All political power is inherent in the people, and all free governments are founded on their authority, and are instituted for their equal protection and benefit. No special privileges or immunities shall ever be granted by the legislature, which may not be altered, revoked or repealed by the same body; and this power shall be exercised by no other tribunal or agency.

Kan. Const. B. of R. § 7 provides in part:

The right to worship God according to the dictates of conscience shall never be infringed; nor shall any person be compelled to attend or support any form of worship; nor shall any control of or interference with the rights of conscience be permitted, nor any preference be given by law to any religious establishment or mode of worship.

Kansas Preservation of Religious Freedom Act provides in pertinent part:

"(**a**) Government shall not substantially burden a person's civil right to exercise of religion even if the burden results from a rule of general applicability, unless such government demonstrates, by clear and convincing evidence, that application of the burden to the person:

(**1**) Is in furtherance of a compelling governmental interest; and

(**2**) is the least restrictive means of furthering that compelling governmental interest.

"K.S.A. § 60-5304. In determining whether a compelling governmental interest is sufficient to justify a substantial burden on a person's exercise of religion pursuant to K.S.A. § 2013 Supp. 60-5303, and amendments thereto, only those interests of the highest order and not otherwise served can overbalance the fundamental right to the exercise of religion preserved by this act. In order to prevail under the standard established pursuant to subsection (**a**) of K.S.A. § 2013 Supp. 60-5303, and amendments thereto, the government shall demonstrate that such standard is satisfied through application of the asserted violation of this act to the particular

claimant whose sincere exercise of religion has been burdened. The religious liberty interest protected by this act is an independent liberty that occupies a preferred position, and no encroachments upon this liberty shall be permitted, whether direct or indirect, unless required by clear and compelling governmental interests of the highest order."

Kansas Annotated Statute Section 75-5223 States:

Upon the request of an inmate confined at a correctional institution under the supervision and control of the secretary of corrections for a Bible or other related religious text materials, the secretary shall furnish any such religious materials that have been donated to the secretary to the inmate, provided such religious materials are not determined by the secretary to be detrimental to the security and orderly operation of a correctional institution.

STATEMENT OF THE CASE

A. *Proceedings in the State Courts*

On October 13, 2016, Petitioner was sentenced to 34 months' imprisonment with "**lifetime post release supervision**" and granted probation for a term of 24 months following his conviction for one count of attempted aggravated indecent solicitation of a child, one count of aggravated battery; and one count of lewd and lascivious behavior.

At a probation violation hearing on September 14, 2017 the District Court of Sedgwick County, Kansas, revoked Mr. Ridley's (Tycoon) probation after finding that he committed a new crime of `Domestic Battery – BODILY HARM´ the district court also found that the safety of the members of the public would be jeopardized by imposing an intermediate sanction. On his direct appeal, the Kansas Court of Appeals (K.C.O.A.) affirmed the revocation and dismissed for lack of jurisdiction the portion of the appeal that challenged his original sentence, imposed in 2016. A copy of the Court of Appeals' opinion is attached to this petition as Appendix C. No petition for hearing by the Kansas Supreme Court was sought.

The District Court of Sedgwick County, Kansas denied Petitioner's pro se motion asserting counsel was ineffective and request for reappointment of counsel in a minute order on October 10, 2017; the District Court of Sedgwick County, Kansas denied Petitioner's pro se motion requesting new revocation hearing due to ineffective assistance of counsel in a minute order on October 10, 2017; and the District Court of Sedgwick County, Kansas denied Petitioner's pro se supplement ex parte motion for reconsideration of new revocation hearing and reappointment of counsel in a minute order on March 4, 2020. In state habeas corpus proceedings, the District Court of Butler County, Kansas, partially dismissed all of Petitioner's claims except one, concerning the validity of the parole revocation in a preliminary rulings and partial dismissal order on June 15, 2020 at 4:41 P.M.; the District Court of Butler County, Kansas denied Petitioner's motion to reconsider order on June 25, 2020. The district court resolved the sole remaining claim – that Petitioner's parole was wrongly revoked in 2019 and the Kansas Prisoner Review Board wrongly refused to reinstate his parole in 2020 – by granting the respondent's motion for summary dismissal, holding that the petition was untimely and alternatively, the arguments lacked merit in a journal entry of summary dismissal order on October 20, 2020 at 3:16 P.M.. The District Court of Butler County, Kansas denied Petitioner's motion for directed verdict on November 27, 2020 at 3:04 P.M.; and the Court of Appeals of Kansas, denied Petitioner's pro se motion for temporary restraining order & preliminary injunction on February 22, 2021.

B. Statement of the Facts Adducing Procedural and Substantial Due Process of Law

1. The substantial burden and wrongful imprisonment

Respondent[s], acting under color of state law, engaged in unlawful acts that led to his arrest and imprisonment; and denied Petitioner his rights to procedural and substantial due process. Because he is suffering from irreparable injury under K.S.A. § 2017 Supp. 22-3716 and the inadequacy of legal remedies he petitions the Court to issue an order for an "permanent injunction altering the legal status quo" against them for violations of RLUIPA, under Ex parte Young, 209 U.S. 123, 28 S. Ct. 441, 52 L. Ed. 714 (1908) and the Kansas Preservation of Religious Freedom Act, prohibiting Respondents from causing irreparable harm to Petitioner. Of course, RLUIPA itself contemplates not just traditional Ex parte Young actions against individual officials but also claims directly against governmental entities. See 42 U.S.C. § 2000cc-2(a). This statutory provision and whatever sovereign immunity questions it may or may not raise are not before the Court. See generally Sossamon v. Texas, 131 S. Ct. 1651, 179 L. Ed. 2d 700 (2011). On May 23, 2017 Mr. Ridley (Tycoon) was booked into the Sedgwick County Adult Detention Facility by Wichita police officer Joshua A. Lewis for Domestic Battery Bodily Harm case number 17DV001385. The next day the Municipal Court of the City of Wichita, Kansas released him on bond, with a 72 hour no contact with victim order. The State of Kansas then put an (A&D) hold on Petitioner; and he stayed detained at the Sedgwick County Adult Detention Facility. The Eighteenth Judicial District Court, Sedgwick County, Kansas revoked Mr. Ridley's (Tycoon) probation after finding that he committed a new crime of domestic battery while on probation; see State v. Ridley, 421 P.3d 774, 2018 Kan. App. Unpub. LEXIS 511, 2018 WL 3320909, at *3 (Kan. Ct. App. July 6, 2018) (unpublished opinion). Petitioner was remanded to the Secretary of Corrections.

The case was dismissed in court on July 17, 2018. Petitioner experienced discrimination because of his religion Hinduism. Mr. Ridley (Tycoon) alleges that during his incarceration at the El Dorado Correctional Facility, the Kansas Department of Corrections'; Secretary of Corrections, did not provide him with Vedas associated with Brahmana Vaisnava despite providing bibles to other inmates in violation of K.S.A. § 75-5223. Ridley v. Brownback, 2018 U.S. Dist. LEXIS 207605 (D. Kan., April 3, 2018). He initially filed suit against the State of Kansas asserting claims under the First Amendment, Fourteenth Amendment, Kansas Preservation of Religious Freedom Act and Religious Land Use and Institutionalized Person Act (RLUIPA). The United States District Court for the District of Kansas moved to dismiss the statutory claims, arguing, inter alia, the plaintiff fail to state a claim; see Ridley v. Bd. of Sedgwick Cty. Comm'rs, 2018 U.S. Dist. LEXIS 204846, 2018 WL 6324866 (D. Kan., December 4, 2018).

In the months of November and December of 2018; and also in the months of January, February, March; and November of 2019 Wichita parole officer; Cassandra Vogel, had been harassing Petitioner because he is a Hindu. Parole officer Vogel was harassing him constantly by stating: "I know that you are not homeless and the only problem that I have with you is that I don't believe that you're homeless; and I don't think that you take time out of your day every day to meditate and sleep in public." Mr. Ridley (Tycoon) is a Vaishnava and worships Lord Buddha this is called (**anagarika**). Lit: homeless one. (Someone who has adopted a homeless life without formally ordaining as a monk.) Petitioner was booked into the Sedgwick County Adult Detention Facility on March 5, 2019 in violation of K.S.A. § 75-5217 by the State of Kansas. While he was in custody, the State of Kansas, charged him with a new felony for (Making False Information) case number 2019-CR-000757 on March 22, 2019. The case was dismissed in court on August 29, 2019. Petitioner experienced extremely stern and severe punishment while at the Sedgwick County Adult Detention Facility. Because of his religion Hinduism, Mr. Ridley's (Tycoon) mail was rejected concerning Hindu religious text and prayers that, have been written in Sanskrit that was mailed to him by his friend Nailah Phillips. Also he was not able to worship in peace because Petitioner Mr. Ridley (Tycoon) was put on lock-down multiple times for doing so. On October 18, 2019 at 2:45 P.M. the Deputy Director of the Southern Parole Region; Chase Tipton, disposed of his personal property. His personal property consisted a Bhagavad Gita for him to study daily and black seeds for him to offer to Sri Krishna when he perform his morning ritual, he is of the Vaishnava sect. Because he practice Hinduism CS1 Robert F. Turner #K0000218511 on December 4, 2019 at 10:00 A.M.-10:30 A.M. used "Excessive Use of Force" on him by spraying Petitioner two times with mid-grade pepper spray causing pain and suffering to him and his cell-mate Javonte Terrell #0122970. He was not trying to harm himself, his cell-mate or any of the Kansas Department of Correction's officer(s).

On December 27, 2019 at about 7:25 A.M. CS1 #K0000218511 Robert Turner came to Petitioner's Cell at the El Dorado Correctional Facility A1-100; and stated: (that he want to talk to Mr. Ridley (Tycoon) 'cuff-up', while he was meditating to Lord Vishnu). Petitioner did not respond. CS1 Turner then came back to Petitioner's cell A1-100 between 7:30 A.M.-7:45 A.M. that same day with CS3 Orunsolu while Petitioner was still performing his morning (**yajna**), for (**yajña-purusa**). CS3 Orunsolu conspired in deprivation of Mr. Ridley's (Tycoon) rights under the First Amendment and Kansas Preservation of Religious Freedom Act with CS1 Tuner by stating: ('Mr. Ridley stop harming yourself..., Mr. Ridley stop harming yourself..., Mr. Ridley stop harming yourself,') then CS1 Turner used "Excessive Use of Force" on Petitioner, by spraying him one time with mid-grade pepper spray because of his religion Hinduism. He was not trying to cause harm to himself or any

of (K.D.O.C.'s) officers.

On June 30, 2022 Mr. Ridley (Tycoon) was arrested and booked into the Sedgwick County Adult Detention Facility around the time of 1:00 P.M. by officer Richardson #4447 by order of parole officers Ryan Stork and his supervisor Katherine Herzberg for refusing to sign a special condition of supervision for (G.P.S.) monitoring, no warrant was issued. This has stopped Petitioner from practicing Hinduism because he is a Vaishnava. Because Mr. Ridley (Tycoon) was not an inmate sentenced to imprisonment pursuant to K.S.A. § 21-4643, the Kansas Prisoner Review Board did not order as a special condition of parole that he be electronically monitored for the duration of Petitioner's natural life. This happen at the Wichita parole office. Petitioner asked to have his attorney present before he signed but was denied by parole supervisor Herzberg. On June 30, 2022 at 12:00 P.M. she stated: ("I am not waiting on your lawyer to get here if you don't sign the special condition for (G.P.S.) you're going back to prison,") so did Mr. Stork state the same on this very same date of June 30, 2022. On July 9, 2022 and July 11, 2022 Petitioner, requested the Gita and the Vedas from Chaplain Sandi R. but he was told that the Sedgwick County Adult Detention Facility is out of stock of the Hindu scriptures that he have requested on July 11, 2022 at 10:21:41 A.M. He's affected by this deeply because he was denied his right to substantial due process under the Fourteenth Amendment and his right to study the "**sanātana dharma**" or "eternal law," freely as a Hindu Brahmin of the Vaishnava section of Hinduism under the Kansas Preservation of Religious Freedom Act.

2. The Presumption of Correctness Rebutted by Clear and Convincing Evidence

The District Court of Sedgwick County, Kansas, revoked Mr. Ridley's (Tycoon) probation after finding that he committed a new crime of `Domestic Battery – BODILY HARM´ the district court also found that the safety of the members of the public would be jeopardized by imposing an intermediate sanction; see State v. Ridley, 421 P.3d 774, 2018 Kan. App. Unpub. LEXIS 511, 2018 WL 3320909, at *3 (Kan. Ct. App. July 6, 2018) (unpublished opinion).

In 2017 the District Court of Sedgwick County, Kansas, abused its discretion by imposing a prison sentence in Mr. Ridley's (Tycoon) case base on an error of law and fact. State v. Carr, 314 Kan. 744, 502 P.3d 511 (2022), cert. denied 143 S. Ct. 584, 214 L. Ed. 2d 345 (2023). In the district court's journal entry, it added that Petitioner committed a new crime of domestic battery while on probation.

In April 2020, Petitioner filed in the District Court of Butler County, Kansas his on petition for writ of habeas corpus "In The Matter of the Wrongful Conviction of Anthony Earl Ridley" and Compensation for Wrongful Conviction under K.S.A. § 2020 Supp. 60-1501 and K.S.A. § 2020 Supp. 60-5004. Ridley v. State, 497 P.3d 1169, 2021 Kan. App. Unpub. LEXIS 630, 2021 WL 5027471 (Kan. Ct. App. October 29, 2021) (unpublished opinion), rev., denied July 1, 2022. The district court dismissed all of Petitioner's claims except one, holding that K.S.A. § 60-1501 was not the proper procedural vehicle for such claims. Ridley, 2021 WL 5027471, at *1.

The district court granted the Respondent's motion for summary dismissal. Id. Petitioner appealed but the Kansas Court of Appeals (K.C.O.A.) affirmed the district court and the Kansas Supreme Court (K.S.C.) denied Petitioner's petition for review. On December 14, 2022 Petitioner filed in the United States District Court for the District of Kansas, his petition for federal writ of habeas corpus. In the U.S. district court Mr. Ridley (Tycoon) have "overcome by clear and convincing evidence the presumption of correctness afforded state court factual findings," pursuant to 28 U.S.C. § 2254(e)(1). See APPENDIX D.

C. *Why Relief is Not Available in Any Other Court and Why a Stay is Justified*

Injunctive relief is "necessary or appropriate in aid of [the Court's] [jurisdiction]." The legal rights at issue are "indisputably clear;" and an original writ of injunction, in these most critical and exigent circumstances is not available in any other court because the Kansas Judicial Branch is on shut down for recovery of its system. See APPENDIX 35. Petitioner has specifically requested such extraordinary relief alteration of the legal status quo.

REASONS FOR GRANTING THE WRIT

The functions of government under our system are apportioned. To the legislative department has been committed the duty of making laws; to the executive the duty of executing them; and to the judiciary the duty of interpreting and applying them in cases properly brought before the courts. The general rule is that neither department may invade the province of the other and neither may control, direct or restrain the action of the other. We are not now speaking of the merely ministerial duties of officials. Gaines v. Thompson, 7 Wall. 347. It is only where the rights of persons or property are involved, and when such rights can be presented under some judicial form of proceedings, that courts of justice can interpose relief. But "[t]his court can have no right to pronounce an abstract opinion upon the constitutionality of a state law. Such law must be brought into actual, or threatened operation upon rights properly falling under judicial cognizance, or a judicial remedy is unavailable. "Mass. v. Mellon, 262 U.S. 447, 484, 43 S. Ct. 597, 67 L. Ed. 1078 (1923) (quoting Cherokee Nation v. Ga., 30 U.S. 1, 8 L. Ed. 25 (1831). See also Luther v. Borden, 7 How. 1; Mississippi v. Johnson, 4 Wall. 475, 500; Pacific Telephone Co. v. Oregon, 223 U.S. 118; Louisiana v. Texas, 176 U.S. 1, 23; and Fairchild v. Hughes, 258 U.S. 126." (Emphasis added).

Petitioner asserts that unless the Respondent[s] are restrained, it will enforce the statute in question and unconstitutionally penalize him in violation of his First Amendment rights of freedom of association, free exercise of religion and freedom of speech. Mr. Ridley (Tycoon) is a Hindu, the Kansas Department of Corrections and Sedgwick County Sheriff's Office would not allow him to have a (**1**) certified religious diet, (**2**) preform physical acts [such as] assemble with others for worship service [or] participate in Holi with others among the several States, or with Indian tribes, (**3**) provide the Hindu holy scriptures that he requested, (**4**) denied Petitioner his rights of procedural and substantial due process under the Fourteenth Amendment to the United States Constitution and Sections 1 of the Kansas Bill of Rights; and (**5**) denied Petitioner his right of equal protection of the law under the Fourteenth Amendment to the United States Constitution and Sections 2 of the Kansas Bill of Rights.

In this petition, pro se, Petitioner, Mr. Anthony Earl Ridley (Tycoon), asserts that he has a protected property, life and liberty interest because the State of Kansas created a protected property, life and liberty interest by placing substantive limitations on official discretion and because its executive, officers and judicial authorities by virtue of public position under a state government deprived Mr. Ridley (Tycoon) of Property, Life and Liberty without due process of law. Purpose of injunction is to prevent future violations, and it can be utilized even without showing past wrongs, but moving party must satisfy court that relief is needed, and

that there exists some cognizable danger of recurrent violations, something more than mere possibility which serves to keep case alive. United States v. W. T. Grant Co., 345 U.S. 629, 73 S. Ct. 894, 97 L. Ed. 1303, 1953 Trade Cas. (CCH) ¶ 67493, 1953 U.S. LEXIS 2597 (1953); United States v. Logan Co., 147 F. Supp. 330, 112 U.S.P.Q. (BNA) 104, 1957 U.S. Dist. LEXIS 4246 (D. Pa. 1957).
When this Court is asked to grant extraordinary relief, it considers, among other things, whether the applicant "'is likely to succeed on the merits.'" Nken v. Holder, 556 U. S. 418, 434, 129 S. Ct. 1749, 173 L. Ed. 2d 550 (2009).

"The First Amendment prohibits government from 'abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.' This [includes] ... 'a corresponding right to associate with others.' [Citation.] Protected association furthers 'a wide variety of political, social, economic, educational, religious, and cultural ends; Governor; Laura Kelly, used "abuse of governmental power," Petitioner sent three letters to her and nothing was done to correct institutional civil rights violations. One of those letters stated: "I am a victim of religion discrimination, I am Vaishnava and that I'm experiencing extremely stern and severe punishment." Governor; Laura Kelly, would not act affirmatively to control her officers. My letter was sent to the Secretary of Corrections; Jeffrey Zmuda's, office for response. Petitioner is unable to be with his family for religious reasons, he also can't practice Hinduism freely because of "**lifetime post release supervision**." The Government does not dispute that its rule burdens the exercise of sincerely held religious beliefs. The Petitioner explain that by not letting him be with his family for religious reasons, not allowing him to have a certified religious diet, not providing the Hindu holy scriptures that he requested; and by not allowing him to freely practice Hinduism violates his faith because of what he views as an impermissible custom as a Brahmin of the Vaishnava section of Hinduism. More specifically, he alleges that the "**sanātana dharma**" or "eternal law," forbids these practices. This much, the Petitioner say, violates foundational principles of his religious faith.

Also, another issue at hand is that the State of Kansas denied Mr. Ridley (Tycoon) of his rights under the Due Process Clause and Equal Protection Clause of the Fourteenth Amendment by committing an error of law and fact in the application of K.S.A. § 2017 Supp. 22-3716 when it revoked his probation after finding that he committed a new crime of domestic battery while on probation. For purposes of these proceedings, Kansas has contested none of this. That takes the Court to the question whether Kansas's rule of law qualifies as neutral and generally applicable.

A. Legal Standards

The Equal Protection Clause "generally provides that all persons similarly situated should be treated alike." Edwards v. Valdez, 789 F.2d 1477, 1482 (10th Cir. 1986) (citing Plyler v. Doe, 457 U.S. 202, 216, 72 L. Ed. 2d 786, 102 S. Ct. 2382 (1982). Traditionally, two standards have been used to determine whether state legislation runs afoul of that clause. The first, and by far the most commonly applied, is the rational basis test. Under this test, the court "seek[s] only the assurance that the classification at issue bears some fair relationship to a legitimate public purpose." Plyler, 457 U.S. at 216.

The second standard, labeled "strict scrutiny," is applied when the challenged classification involves a suspect class or impinges upon a fundamental right. Suspect classes include those based on race, Loving v. Virginia, 388 U.S. 1, 18 L. Ed. 2d 1010, 87 S. Ct. 1817 (1967), alienage, Graham v. Richardson, 403 U.S. 365, 29 L. Ed. 2d 534, 91 S. Ct. 1848 (1971), and national origin, Hernandez v. Texas, 347 U.S. 475, 98 L. Ed. 866, 74 S. Ct. 667 (1954). Fundamental rights include voting, privacy, freedom of association, marriage, and travel. See generally San Antonio School District v. Rodriguez, 411 U.S. 1, 17-39, 36 L. Ed. 2d 16, 93 S. Ct. 1278 (1973). A statute that draws such classifications violates equal protection unless the state can "demonstrate that its classification is precisely tailored to serve a compelling government interest." Plyler, 457 U.S. at 217; see also Hoffman v. United States, 767 F.2d 1431, 1435 (9th Cir. 1985). In recent years, the Supreme Court has enunciated a third, intermediate level of scrutiny, which is applied to classifications based on gender, Craig v. Boren, 429 U.S. 190, 50 L. Ed. 2d 397, 97 S. Ct. 451 (1976), and illegitimacy, Mathews v. Lucas, 427 U.S. 495, 49 L. Ed. 2d 651, 96 S. Ct. 2755 (1976). Under this level of review, a statutory classification is valid if it substantially furthers a legitimate state interest. Edwards, 789 F.2d at 1483.

17 Wright, Miller, and Cooper, Federal Practice and Procedure § 4248, at 529 (1978). Coburn v. Agustin, 627 F. Supp. 983 (D. Kan. 1985).

Under this Court's precedents, a law fails to qualify as generally applicable, and thus triggers strict scrutiny, if it creates a mechanism for "individualized exemptions." Church of Lukumi Babalu Aye, Inc. v. Hialeah, 508 U.S. 520, 531-532, 113 S. Ct. 2217, 124 L. Ed. 2d 472 (1993). Lukumi, 508 U. S., at 537; see also Fulton v. City of Philadelphia, 593 U. S. ___, ___ - ___, 141 S. Ct. 1868, 210 L. Ed. 2d 137 (2021). Government infringement of this freedom 'can take a number of forms.'" (Americans for Prosperity Foundation v. Bonta (2021) 594 U.S. ___ [210 L.Ed.2d 716, 726–727, 141 S.Ct. 2373, 2382] (Americans for Prosperity)). For example,

freedom of association may be violated "where individuals are punished for their political affiliation," "or where members of an organization are denied benefits based on the organization's message." (Ibid.) "The Free Exercise Clause, which applies to the States under the Fourteenth Amendment, protects religious observers against unequal treatment and against laws that impose special disabilities on the basis of religious status." Espinoza v. Mont. Dep't of Revenue, 140 S. Ct. 2246, 2254, 207 L. Ed. 2d 679 (2020) (quotation marks omitted); ("[T]he Free Exercise Clause . . . protects the performance of (or abstention from) physical acts that constitute the free exercise of religion: assembling with others for a worship service, participating in sacramental use of bread and wine, proselytizing, abstaining from certain foods or certain modes of transportation.") (Quotation marks omitted)). But the Free Exercise Clause "does not relieve an individual of the obligation to comply with a valid and neutral law of general applicability," Emp't Div., Dep't of Human Res. v. Smith, 494 U.S. 872, 879, 110 S. Ct. 1595, 108 L. Ed. 2d 876 (1990) (quotation marks omitted), "even if the law has the incidental effect of burdening a particular religious practice," Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520, 531, 113 S. Ct. 2217, 124 L. Ed. 2d 472 (1993).

"A law burdening religious conduct that is not both neutral and generally applicable, however, is subject to strict scrutiny." Cent. Rabbinical Cong. of U.S. & Canada v. N.Y.C. Dep't of Health & Mental Hygiene, 763 F.3d 183, 193 (2d Cir. 2014) (citing Lukumi, 508 U.S. at 531-32). "A law is not neutral if it is specifically directed at a religious practice." Id. (cleaned up). Similarly, a law is "not generally applicable if it is substantially under-inclusive such that it regulates religious conduct while failing to regulate secular conduct that is at least as harmful to the legitimate government interests purportedly justifying it." Id. at 197.

Discrimination against religion is "odious to our Constitution." Trinity Lutheran Church of Columbia, Inc. v. Comer, 137 S. Ct. 2012, 2025, 198 L. Ed. 2d 551 (2017). "Official action that targets religious conduct for distinctive treatment" must thus satisfy "the most rigorous of scrutiny." Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520, 534, 546, 113 S. Ct. 2217, 124 L. Ed. 2d 472 (1993). (Emphasis added.)

B. *Permanent Injunction*

According to well-established principles of equity, a plaintiff seeking a permanent injunction must satisfy a four-factor test before a court may grant such relief. A plaintiff must demonstrate: (1) that it has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between

the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction. See Monsanto Co. v. Geertson Seed Farms, 561 U.S. 139, 130 S. Ct. 2743, 177 L. Ed. 2d 461 (2010); eBay Inc. v. MercExchange, L.L.C., 547 U.S. 388, 391, 126 S. Ct. 1837, 164 L. Ed. 2d 641 (2006); see also Prairie Band Potawatomi Nation v. Wagnon, 476 F.3d 818, 822 (10th Cir. 2007) (quoting Fisher v. Okla. Health Care Auth., 335 F.3d 1175, 1180 (10th Cir. 2003)).

ARGUMENT

I

THE DISTRICT COURT'S FINDINGS OF FACT DOES NOT ADEQUATELY SUPPORT ITS FINAL CONCLUSION OF LAW, THE STANDARD WHICH THE COURT OF APPEALS USE SHOULD NOT BE USED TO DETERMINE THAT PETITIONER HAS SUFFERED AN IRREPARABLE INJURY

A. *Irreparable Injury*

The assertion of First Amendment rights does not automatically require a finding of irreparable injury. The plaintiff must show that there is "a chilling effect on free expression." Hohe v. Casey, 868 F.2d 69, 73 (3d Cir.), cert. denied, 493 U.S. 848, 107 L. Ed. 2d 102, 110 S. Ct. 144 (1989). Irreparable injury is only established where money damages are difficult to ascertain or are clearly inadequate. Mr. Ridley (Tycoon) states he has been irreparably injured through the loss of enjoyment of life, interference with the use and enjoyment of his property that was intentional, substantial and unreasonable, reputational injury, bodily harm (pain & suffering), emotional injury, dispiritedness, mental distress and injury from the potentially violent atmosphere of the prison.

B. *Remedies Available at Law are Inadequate to Compensate for Irreparable Injury*

The nature of these injuries is such that Mr. Ridley (Tycoon) does not have "a full, complete; and adequate remedy at law through recovery calculable money damages." Wichita Wire, Inc. v. Lenox, 11 Kan. App. 2d 459, 726 P.2d 287, Syl. P 10, 726 P.2d 287 (1986). An action for damages would be inadequate to prevent threatened physical harm. Injunction is not appropriate if a remedy at law can furnish the injured party with the full relief to which he or she is entitled. 42 Am. Jur. 2d, Injunctions § 1, p. 551. The allegations that Ridley (Tycoon) lacked an adequate legal remedy are also sufficient. To obtain an injunction, therefore, the Petitioner must show a "genuinely extraordinary situation." Sampson v. Murray, 415 U.S. 61, 92 n.68, 94 S. Ct. 937, 39 L. Ed. 2d 166 (1974). This Court has stated

that "the basis of injunctive relief in the federal courts has always been irreparable harm and inadequacy of legal remedies," Beacon Theatres, Inc. v. Westover, 359 U.S. 500, 506-507 (1959).

All of the remaining considerations strongly favor the entry of a permanent injunction, altering the legal status quo and prohibiting Respondents from causing irreparable harm to Petitioner. The Petitioner's inability to peacefully assemble with others for a worship service, hold in-person worship services; and public, his family members', friends and other Hindu Brahmins' inability to attend them, are certainly irreparable injuries. ("[T]he violation of one's right to the free exercise of religion necessarily constitutes irreparable harm."), aff'd sub nom. Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal, 546 U.S. 418, 126 S. Ct. 1211, 163 L. Ed. 2d 1017 (2006). The injury here is particularly poignant, given that Holi—which Hindus greatly desires to celebrate—falls in March, April, or May each year. Indeed, the State explicitly "does not question the sincerity of Petitioner's belief that it is essential to gather in person for worship services." I do not doubt the importance of the public safety objectives that the State puts forth, but the State can accomplish those objectives without resorting to its current inflexible and overbroad denial of Mr. Ridley's (Tycoon) religious freedoms. The balance of equities, and the public interest, strongly favor requiring the State to honor its constitutional duty to accommodate a critical element of the free exercise of religion—public worship.

C. *Threatened Injury Outweighed Damage*

The express purpose of "permanent injunctive relief altering the legal status quo prohibiting Respondents from causing irreparable harm to Petitioner," in this case is to thwart potential violence to Mr. Ridley's (Tycoon) body while in the custody of the Secretary of Corrections, and not unduly infringe his First Amendment rights of freedom of association, speech and religion. Madsen v. Women's Health Center, 512 U.S. 753, 129 L. Ed. 2d 593, 114 S. Ct. 2516 (1994). "The First Amendment," the Court have noted, "doesn't protect violence," but when conduct sanctionable by tort liability "occurs in the context of constitutionally protected activity . . . 'precision of regulation' is demanded." See NAACP v. Claiborne Hardware Co., 485 U.S. 866, 73 L. Ed. 2d 1215, 102 S. Ct. 3409 (1982); (quoting NAACP v. Button, 371 U.S. 415, 438, 9 L. Ed. 2d 405, 83 S. Ct. 328 (1963)). Specifically, the presence of activity protected by the First Amendment imposes restraints on the grounds that may give rise to damages liability and on the persons who may be held accountable for those damages. Madsen further upheld a combination of government interests used by the Florida Supreme Court as quite sufficient to justify an appropriately tailored injunction to protect them. 129 L. Ed. 2d at 610. Some of those interest apply in this present case as well, including the State of Kansas' strong interest in ensuring the

public safety and order, in protecting the property rights of all its citizens. See 129 L. Ed. 2d at 609. Also, an additional governmental interest at stake here is the right to worship one's religion without infringement. See Kan. Const. Bill of Rights, § 7.

D. *Public Interest*

In Gibson v. Florida Legislative Investigation Committee, 372 US 539, 9 L Ed 2d 929, 83 S. Ct. 889 (1963), the Court noted that it had repeatedly held that the right of association is within the ambit of the constitutional protections afforded by the First and Fourteenth Amendments, and that it is beyond debate that freedom to engage in association for the advancement of beliefs and ideas is an inseparable aspect of the liberty assured by the due process clause of the Fourteenth Amendment. Looking to other traditional factors also suggests relief is warranted. Before granting a stay or injunction relief, the Court ask not only whether a litigant is likely to prevail on the merits but also whether denying relief would lead to irreparable injury and whether granting relief would harm the public interest. Roman Catholic Diocese, 592 U.S. ___, ___, 141 S. Ct. 63, 208 L. Ed. 2d 206 (2020); see also 28 U.S.C. § 1651(a).

The answer to both questions is clear. The presence of irreparable harm is such a context, it has remain cognizant that the violation of a constitutional right must weigh heavily in that analysis cf. Elrod v. Burns, 427 U.S. 347, 373, 96 S. Ct. 2673, 49 L. Ed 2d 547 (1976) (holding that "[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury;") O Centro Espirita Beneficente Uniao do Vegetal v. Ashcroft, 389 F.3d 973, 1008 (10th Cir. 2004) (en banc) (Seymour, J., concurring in relevant part for a majority of the court). This case presents an important constitutional question, a serious error, irreparable injury; and the inadequacy of legal remedies.

"Inasmuch as this case involves First Amendment rights of association which must be carefully guarded against infringement by public office holders, the Circuit Court judged that injunctive relief is clearly appropriate in these cases." Burns v. Elrod, 509 F.2d 1133, 1136 (11th Cir. 1975).

In Ex parte Jentzsch, 112 Cal. 468 [44 P. 803, 32 L.R.A. 664], the court held a statute requiring barbershops to be closed on Sundays and legal holidays to be unconstitutional. The court stated that a Sunday closing statute should not be considered as a religious enactment, but as a civil and secular enactment, and reasoned as follows (p. 471): "Under a constitution which guarantees to all equal liberty of religion and conscience, any law which forbids an act not itself contra bonos mores, because that act is repugnant to the beliefs of one religious sect, of

necessity interferes with the liberty of those who hold to other beliefs or to none at all. "Liberty of conscience and belief is preserved alike to the followers of Christ, to Buddhist and Mohammedan, to all who think that their tenets alone are illumined by the light of divine truth; but it is equally preserved to the skeptic, agnostic, atheist, and infidel, who says in his heart, 'There is no God.'"

"The idea of religion without God is shocking to Christians, Jews, and Muhammadans, but Buddha and Confucius long ago founded nontheistic religions and some modern Unitarian Humanists insist that the idea of God is a positive hindrance to the progress of real religion.

There is another factor to be considered. Underlying the whole subject is the First Amendment to the United States Constitution which provides:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

The provisions of the Kansas Constitution guaranteeing a separation of church and state have already been quoted. The First Amendment to the United States Constitution is made applicable to the states by the Fourteenth Amendment. (Cantwell v. Connecticut, 310 U.S. 296 [60 S. Ct. 900, 84 L. Ed. 1213, 128 A.L.R. 1352].) Under the constitutional provision the state has no power to decide the validity of the beliefs held by the group involved. The principal case establishing this concept is United States v. Ballard, 322 U.S. 78, 86 [64 S. Ct. 882, 88 L. Ed. 1148], which holds that: "Men may believe what they cannot prove. They may not be put to the proof of their religious doctrines or beliefs." (See Silving, "The Unknown and the Unknowable," 35 Cal.L.Rev. 352).

The only way the state can determine the existence or nonexistence of "religious worship" is to approach the problem objectively. It is not permitted to test validity of, or to compare beliefs. This simply means that "religion" fills a void that exists in the lives of most men. Regardless of why a particular belief suffices, as long as it serves this purpose, it must be accorded the same status of an orthodox religious belief. Of course, the belief cannot violate the laws or morals of the community, but subject to this limitation, the content of the belief is not a matter of governmental concern. Our rights-first founding was accomplished when, in the act of constituting Kansas, our founders retained for themselves all pre-political individual sovereignty except that which was relinquished as necessary to secure the political community being formed. When political actors and judges start from this understanding, the

constitution becomes primarily a power-limiting document. This power-oriented understanding of the constitution magnifies the people's natural, pre-political rights. This is how our founders understood the political charter they wrote and ratified. In particular, section 1 of the Kansas Constitution Bill of Rights was intended to settle this question for the newly formed State of Kansas. In Kansas, rights come first—then government.

The winning side of the long and labored debates over Kansas' political birth believed that rights bearing, pre-political persons compacted together to give a measure of their sovereignty—no more than necessary—to their agents in the newly formed State. Those agents, in turn, were to exercise that limited measure of sovereignty to promote and secure the common good. In this way, our founders reaffirmed the republican genius of the American founding that a government of limited powers, delegated by the consent of naturally sovereign individuals to secure a common welfare (literally a commonwealth), is a better guarantee—the only real guarantee—of the full range of natural pre-political rights than is a government of unlimited power which doles certain favored rights back out to citizens. See, e.g., Charles, Restoring "Life, Liberty, and the Pursuit of Happiness" in our Constitutional Jurisprudence: An Exercise in Legal History, 20 Wm. & Mary Bill Rts. J. 457, 481-83 (2011) ("[T]he Declaration's preamble . . . embodies the belief and ideal that a Republic, based solely on the equitable consent of the people, will best preserve 'life, liberty, and the pursuit of happiness.'").

I turn briefly to § 2, since Mr. Ridley (Tycoon) also premise his action on that part of the Kansas Constitution Bill of Rights. Section 2 provides:

"All political power is inherent in the people, and all free governments are founded on their authority, and are instituted for their equal protection and benefit. No special privileges or immunities shall ever be granted by the legislature, which may not be altered, revoked or repealed by the same body; and this power shall be exercised by no other tribunal or agency."

It is important to note that the district court revoked Mr. Ridley's (Tycoon) probation and ordered him to serve his underlying prison sentence due to the commission of a new offense, and based on public safety findings. See Appendix C; see also State v. Ridley, 421 P.3d 774, 2018 Kan. App. Unpub. LEXIS 511, 2018 WL 3320909 at *2 (Kan. Ct. App., July 6, 2018). I believe that the public's interest will be best severed once a permanent injunction altering the legal status quo is issued. Clearly, enjoining the State of Kansas' Executive Branch and Judicial Branch officials, enforcement of K.S.A. § 2017 Supp. 22-3716 is in the public interest.

Kan. Const. Bill Rights § 1 provides that all men are possessed of equal and inalienable natural rights, among which are life, liberty, and the pursuit of happiness. Kan. Const. Bill Rights § 2 provides that all political power is inherent in the people, and all free governments are founded on their authority, and are instituted for their equal protection and benefit. The Due Process Clause and Equal Protection Clause of the Fourteenth Amendment in this case now before the Court appears to be entirely reasonable in its scope and; therefore, is not detrimental to the public welfare. The Court should conclude that the issuance of the requested injunction would not be adverse to the public interest.

II

IN CLEAR CASE INVOLVINING FIRST AMENDMENT RIGHTS; CONSEQUENTLY, INJUNCTIVE RELIEF WILL BE EXERCISED TO ENJOIN THE THEATENED ENFORCEMENT OF A STATE LAW WHICH CONTRAVENES THE FEDERAL CONSTITUTION WHEREVER IT IS ESSENTIAL IN ORDER EFFECTUALLY TO PROTECT PROPERTY RIGHTS AND THE RIGHTS OF PERSONS AGAINST INJURIES OTHERWISE IRREMEDIABLE

Within the meaning of the Fourteenth Amendment these acts or customs deprived the Petitioner of his life, liberty and property without due process of law, and abridged the privileges and immunities of the Petitioner as a citizen of the United States.

At the outset, it should be borne in mind that "constitutional provisions for the security of person and property should be liberally construed." It is the duty of the courts to be watchful of constitutional rights and "against any stealthy encroachments thereon." As to the general intent of the Fourteenth Amendment, "that there should be no arbitrary deprivation of life or liberty, or arbitrary spoliation for property," see Barbier v. Connolly, 113 U.S. 27, 31 (1885); Yick Wo v. Hopkins, 118 U.S. 356 (1886).

Assuming the question presented in this case to be wholly open, we submit with deference that the only principle that saves from condemnation, as abridging the privileges and immunities of citizens of It does not at all follow that every statute enacted ostensibly for the promotion of these ends, is to be accepted as a legitimate exertion of the police powers of the State. There are, of necessity, limits beyond which legislation cannot rightfully go. While every possible presumption is to be indulged in favor of the validity of a statute, Sinking Fund Cases, 99 U.S. 700, 718 (1878), the courts must obey the Constitution rather than the law-making department of government, and must, upon their own responsibility, determine

whether, in any particular case, these limits have been passed. "To what purpose," it was said in Marbury v. Madison, 1 Cranch, 137, 176 (1803); "are powers limited, and to what purpose is that limitation committed to writing, if these limits may, at any time, be passed by those intended to be restrained? The distinction between a government with limited and unlimited powers is abolished, if those limits do not confine the persons on whom they are imposed, and if acts prohibited and acts allowed are of equal obligation." The courts are not bound by mere forms, nor are they to be misled by mere pretenses. They are at liberty -- indeed, are under a solemn duty -- to look at the substance of things, whenever they enter upon the inquiry whether the legislature has transcended the limits of its authority. If, therefore, a statute purporting to have been enacted to protect the public health, the public morals, or the public safety, has no real or substantial relation to those objects, or is a palpable invasion of rights secured by the fundamental law, it is the duty of the courts to so adjudge, and thereby give effect to the Constitution.

In exercising their sound discretion, courts of equity should pay particular regard for the public consequences in employing the extraordinary remedy of injunction. Railroad Comm'n v. Pullman Co., 312 U.S. 496, 500 (1941).

Since the beginning of this country's history Congress has, subject to few exceptions, manifested a desire to permit state courts to try state cases free from interference by federal courts. In 1793 an Act unconditionally provided: "Nor shall a writ of injunction be granted to stay proceedings in any court of a state . . . ." 1 Stat. 335, c. 22, § 5. A comparison of the 1793 Act with 28 U. S. C. § 2283, its present-day successor, graphically illustrates how few and minor have been the exceptions granted from the flat, prohibitory language of the old Act. During all this lapse of years from 1793 to 1970 the statutory exceptions to the 1793 congressional enactment have been only three:

(1) "except as expressly authorized by Act of Congress"; (2) "where necessary in aid of its jurisdiction"; and (3) "to protect or effectuate its judgments." In addition, a judicial exception to the longstanding policy evidenced by the statute has been made where a person about to be prosecuted in a state court can show that he will, if the proceeding in the state court is not enjoined, suffer irreparable damages. See Ex parte Young, 209 U.S. 123 (1908).

A. *28 U.S.C. § 2283 has Been Used Exceptionally and Effectively to Enjoin the Enforcement of a State Statute in the Federal Court*

In Fenner v. Boykin, 271 U.S. 240 (1926), suit had been brought in the Federal District Court seeking to enjoin state prosecutions under a recently enacted state

law that allegedly interfered with the free flow of interstate commerce. The Court, in a unanimous opinion made clear that such a suit, even with respect to state criminal proceedings not yet formally instituted, could be proper only under very special circumstances:

"Ex parte Young, 209 U.S. 123, and following cases have established the doctrine that when absolutely necessary for protection of constitutional rights courts of the United States have power to enjoin state officers from instituting criminal actions. But this may not be done except under extraordinary circumstances where the danger of irreparable loss is both great and immediate. Ordinarily, there should be no interference with such officers; primarily, they are charged with the duty of prosecuting offenders against the laws of the State and must decide when and how this is to be done. The accused should first set up and rely upon his defense in the state courts, even though this involves a challenge of the validity of some statute, unless it plainly appears that this course would not afford adequate protection." Id., at 243-244.

These principles, made clear in the Fenner case, have been repeatedly followed and reaffirmed in other cases involving threatened prosecutions. See, e. g., Spielman Motor Sales Co. v. Dodge, 295 U.S. 89 (1935); Beal v. Missouri Pac. R. Co., 312 U.S. 45 (1941); Watson v. Buck, 313 U.S. 387 (1941); Williams v. Miller, 317 U.S. 599 (1942); and Douglas v. City of Jeannette, 319 U.S. 157 (1943).

These principles have particular significance when, as in this case, the attack upon the statute on its face is for repugnancy to the First Amendment. In such case to force Mr. Ridley (Tycoon) who has commenced this federal action so that he may not suffer the delay of state court proceedings might itself effect the impermissible chilling of the very constitutional right he seeks to protect. See Dombrowski v. Pfister, 380 U.S. 479, 486-487 (1965); Baggett v. Bullitt, 377 U.S. 360, 378-379 (1964); NAACP v. Button, supra, at 433; cf. Garrison v. Louisiana, 379 U.S. 64, 74-75 (1964); see also Smith v. California, 361 U.S. 147 (1959).

This case presents an important constitutional question, a serious error, irreparable injury and the inadequacy of legal remedies. Dombrowski teaches that the questions of abstention and of injunctive relief are not the same. The question of the propriety of the action of the District Court in abstaining was discussed as an independent issue governed by different considerations. The Court squarely held that "the abstention doctrine is inappropriate for cases such as Zwickler v. Koota, 389 U.S. 241, 88 S. Ct. 391, 19 L. Ed. 2d 444 (1967) where . . . statutes are justifiably attacked on their face as abridging free expression . . . .".

CONCLUSION

For the foregoing reasons, the petition for writ of injunction should be granted.

Respectfully submitted,

/s/ Anthony Earl Ridley Tycoon

Date: March 13, 2024

No. _____

_____

IN THE

SUPREME COURT OF THE UNITED STATES

_____

IN RE ANTHONY EARL RIDLEY TYCOON – PETITIONER

vs.

THE STATE OF KANSAS, ET AL. – RESPONDENT(S)

PROOF OF SERVICE

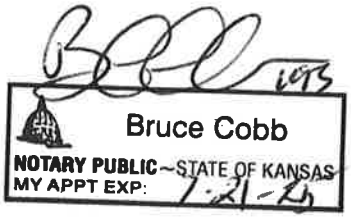
I, Anthony Earl Ridley (Tycoon), do swear or declare that on this date, March 13, 2024, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above document in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Solicitor General of the United States, Room #5616, Department of Justice, 950 Pennsylvania Avenue, N.W. Washington, D.C. 20530-0001, Governor of Kansas Laura Kelly, Governor's Constituent Services Office, 300 S.W. 10th Street, Topeka, Kansas 66612, Attorney General of Kansas Kris Kobach, Memorial Hall, 120 S.W. 10th Avenue 2nd Floor, Topeka, Kansas 66612; and Attorney Laura H. Oblinger, Sedgwick County Sheriff's Office, 141 W. Elm Street Floor #2, Wichita, Kansas 67203

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Anthony Earl Ridley Jr.



Additional material from this filing is available in the Clerk's Office.