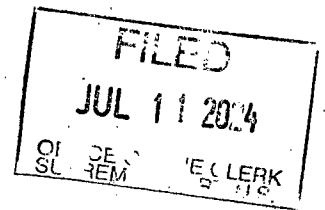


24-5512

ORIGINAL

No. _____



IN THE

SUPREME COURT OF THE UNITED STATES

Daniel Allen LeClerc Sr. — PETITIONER
(Your Name)

vs.

John I. Guy — RESPONDENT(S)
Mark R. Miller
ON PETITION FOR A WRIT OF CERTIORARI TO

Unite States 11th District 56 Forsyth St. N.W.
Atlanta, GA. 30303
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Daniel Allen LeClerc Sr.
(Your Name)

500 E. Adams St.
(Address)

Jacksonville, FL. 32202
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

- 1) Can a (Circuit Court) family Court Judge compel & threaten me into making a spontaneous decision about the "placement" of my children when, I have stated that, I'd like to have counsel and time to reach out to a member of the family. I want to take my minor children?
- 2) Can a (Circuit Court) family Court Judge hold a "hearing" and compel party to participate without counsel?
- 3) Can a (Circuit Court) family Court Judge make an official Court Judicial Ruling during a "hearing" if, he is dressed in plain clothes at a table in his chambers?
- 4) Can a (Circuit Court) family Court Judge hold a "hearing" without having it recorded in some way?
- 5) Can a Plaintiff sue a Circuit Court Judge for violating his Federal Constitutional Rights?

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ 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:

RELATED CASES

United States District Court Middle District of Florida
Jacksonville Division 3:24-cv-63-TJC-PDB.
Plus the 11th District *ja*

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

None

I will be citing case law in the section, "Reasons for Granting the Petition".

STATUTES AND RULES

None

OTHER

None

TABLE OF CONTENTS

OPINIONS BELOW.....	5
JURISDICTION.....	6
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	7
STATEMENT OF THE CASE	8
REASONS FOR GRANTING THE WRIT	9
CONCLUSION.....	10

INDEX TO APPENDICES

APPENDIX A	is Exhibit A which contains 4 documents as listed on the Exhibit page.
APPENDIX B	is Exhibit B which is Petitioner's Filed 1983 complaint with two Addendum pages.
APPENDIX C	None...
APPENDIX D	None...
APPENDIX E	None...
APPENDIX F	None...

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix ^{Exhibit} A to the petition and is

☒ reported at Clerc v. Guy, 2024 U.S. Dist. LEXIS 46842; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix None to the petition and is

☒ reported at Clerc v. Guy, 2024 U.S. Dist. LEXIS 16391; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was March 18, 2024.

☒ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: N/A, and a copy of the order denying rehearing appears at Appendix N/A.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (date) in Application No. none A none.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Federal Constitution Amendment 5

Federal Constitution Amendment 6

Federal Constitution Amendment 14

STATEMENT OF THE CASE

On January 4, 2023, the Petitioner was served with a "Petition for Termination of Parental Rights for Subsequent Adoption" then a few days later, Petitioner received a "Notice of Hearing Motion to Authorize Placement." The "Hearing" was scheduled for "January 12, 2023 at 8:30am. before Judge John I. Guy, [in room 742]" Upon the Petitioner's appearance to the "Hearing" via zoom, he noticed two things; 1) his zoom appearance was not in a courtroom, 2) there was only one attorney present. After being advised of all the facts about why the "Hearing" had been scheduled, Petitioner was asked if he would consent to his children being placed into the home of the Prospective Adoptive Parents. Petitioner asked if the "Hearing" could be pushed off until the court could appoint him an attorney to which, he was threatened by defendant one Judge Guy who told him, if you want me to push this hearing off so you can have an attorney, I'll just sign an order right now to place your children into foster care. Defendant one then went on to tell Petitioner about how children get split up in foster care and how he could not stop it. Petitioner asked if his children could go with someone of his choice, to which, Defendant one asked for that person's phone number. Petitioner informed Defendant one that he only has an address and needed time to write the person. Defendant one told Petitioner no, we don't have time for any of that, you have to make a choice right now or I'll just place the children in foster care. Petitioner then asked Defendant one and two, if he does agree to the "placement," could he still see and write his babies. Defendant one said it would be up to Defendant two Mark R. Miller. Defendant two said he does not have any problem with it but first, he needed to have the kids checked by a psychiatrist to "make sure its safe for the kids!" Defendant has not allowed Petitioner or any family to have any contact with the children. Petitioner and family have been totally denied any access to the kids and neither is the court allowing family to gain any legal custody. In short, it is Petitioner's belief that, Defendant's one and two have used the judges chambers to hold a secret "hearing" which has no record of recording to, conspire against Petitioner and used tactics of fear and threat to compel Petitioner into, giving his consent for placement of his children when Petitioner did in fact have, family to take the children.

Note: the federal Court made some false statements in there findings about Petitioner's statements for his claims. (Please see Petitioner's filed 1983 Complaint as Exhibit B).

REASONS FOR GRANTING THE PETITION

Petitioner will argue that, Judge John I. Guy's actions, were very unbecoming for someone of his position and should not be allowed to stand without action taken. Because of Judge John I. Guy's actions, the maternal grandmother & grandfather have spent hundreds and even thousands of dollars fighting to get custody of their grandchildren they have a right to! Judge Guy's actions have violated Petitioners Due Process and right to Counsel and has caused Petitioner much stress, anxiety, sleepless nights as well the maternal grandmother and grandfather.

The Federal Court has ruled that Petitioner's claims have no merit and that Judge John I. Guy is not subject to suit because, he has "absolute immunity" from damages while acting in his judicial capacity. (Petitioner will point out that, neither did Judge Guy have on his Judges robe or was he on the bench during his actions thus, he was not in a "judicial" capacity).

Harlow vs. Fitzgerald, 457 U.S. 800, 818; 102 S.Ct. 2727, 73 L.Ed. 2d 396 (1982).

Government officials are entitled to qualified immunity from civil damages [so long as] "their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have know."

(In other words, a government official is entitled to qualified immunity when 1: the plaintiff has not demonstrated a violation of constitutional right, or 2: the Court concluded that the right at issue was not clearly established at the time of the official's alleged misconduct. See *Pearson vs. Callahan*, 555 U.S. 223, 236, 129 S.Ct. 808, 172 L.Ed. 2d 565 (2009)).

Ziglar vs. Abbasi, 582 U.S. 120

If it would have been clear to a reasonable officer that the alleged conduct "was unlawful in the situation he confronted, the defendant officer is not entitled to qualified immunity." See *Saucier vs. Katz*, 533 U.S. 194, 202, 121 S.Ct. 2151, 150 L.Ed. 2d 272.

Malley vs. Briggs, 475 U.S. 335, 341, 89 L.Ed. 2d 271, 106 S.Ct. 1092 (1986)

(HN7 qualified immunity protects "all but the plainly incompetent or those who knowingly violated the law").

Dotherd vs. Watson, 2023 U.S. Dist. LEXIS 196180, 2023 WL 7179079

... judicial capacity depends on whether: (1) the act complained of constituted a normal judicial function; (2) the events occurred in the [Judge's chambers] or in open Court; (3) the controversy involved a case pending before the judge; and (4) the confrontation arose immediately out of a visit judge in his judicial capacity.

Other Cases to Support the above:

Mullenix vs. Luna, 577 U.S. 7
Ashcroft vs. al-Kidd, 563 U.S. 371, 741
Reichle vs. Howards, 566 U.S. 568, 664
Whitten vs. Wooten, 295 Ga. App. 281
Cook vs. Bell, 2024 U.S. App. LEXIS 4997

(see Addendum)

(Addendum)

Petitioner will argue that, this petition should be granted because the federal court made a wrongful ruling because, Petitioner's claims do have merit as he was denied Due Process and he was wrongfully denied his Federal Right under the 6th Amendment to Counsel. And, Judge John J. Guy is subject to suit as, he was not acting in his "judicial capacity" while dressed in street clothes and in his chambers! Petitioner will further argue that, Judge Guy's actions were **NOT** a "normal judicial function", he did "knowingly violate the law," the laws violated are "clearly established at the time of the official's alleged misconduct," and the laws violated are "clearly established... constitutional rights." that Judge Guy was "a reasonable person" who "would have known."

Based on all the above, Petitioner believes this petition is due to be granted.

To conclude this petition, the Petitioner would seek to amend his request in his 1983 complaint under section VI # 3 & 4 on Addendum page # 2. ↓

Petitioner would request that, the Children be awarded to the custody of the maternal grandmother, Janice Marie Alston, at 8142 Justin Road South, Jacksonville, FL 32210. (904) 554-1084 and that she be awarded any and all expenses she has invested into her fight to obtain custody of her grandchildren.

Petitioner also requests that the maternal grandfather be awarded any and all expenses back that he has invested into his fight to obtain custody of his grandchildren.

Further, Petitioner would request that, Judge John I. Guy be ordered to pay \$15,000.00 into an account payable to, Janice Marie Alston to help take care of the 3 minor children due to, pain and suffering Petitioner, maternal grandmother, & maternal grandfather has had to endure these past two years!

Lastly, Petitioner would move to, exclude Defendant 2, Mark R. Miller from the complaint but that, custody of the children be taken from him and awarded to the maternal grandmother in the same like manner as Mark R. Miller.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

D' Allen Le
Daniel Allen LeClerc Sr.

Date: 08-16-24

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

DANIEL ALLEN LE CLERC, SR. ,

Plaintiff,

v.

Case No: 3:24-cv-63-TJC-PDB

JOHN I. GUY and MARK R. MILLER,

Defendants.

JUDGMENT IN A CIVIL CASE

- 1 **Decision by Court.** This action came before the Court and a decision has been rendered.
- 2 **IT IS ORDERED AND ADJUDGED**
- 3 Pursuant to the Court's Order entered on March 18, 2024, this case is dismissed
- 4 without prejudice.
- 5 Any motions seeking an award of attorney's fees and/or costs must be filed within
- 6 the time and in the manner prescribed in Local Rule 7.01, United States District
- 7 Court Middle District of Florida.
- 8 Date: March 19, 2024

ELIZABETH M. WARREN, CLERK

s/L. Kirkland, Deputy Clerk

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA**

Bryan Simpson United States Courthouse
300 North Hogan Street Suite 9-150
Jacksonville, Florida 32202
(904) 549-1900

Elizabeth M. Warren
Clerk of Court

Jim Leanhart
Jacksonville Division Manager

DATE: April 4, 2024

TO: Clerk, U.S. Court of Appeals for the Eleventh Circuit

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

DANIEL ALLEN LE CLERC, SR.,

Plaintiff,

Case No. 3:24-cv-63-TJC-PDB

v.

JOHN I. GUY, and MARK R. MILLER,

Defendants.

Enclosed are documents and information relating to an appeal in the above-referenced action. Please acknowledge receipt on the enclosed copy of this letter.

- Honorable Timothy J. Corrigan, United States District Judge appealed from.
- Appeal filing fee was not paid. Upon filing a notice of appeal, the appellant must pay the district clerk all required fees. The district clerk receives the appellate docket fee on behalf of the court of appeals.
- IFP not filed. If you are filing In Forma Pauperis, a request for leave to appeal In Forma Pauperis needs to be filed with the District Court.
- Notice of Appeal, Order, Judgment, Docket sheet enclosed.

ELIZABETH M. WARREN, CLERK

By: s/ELM, Deputy Clerk

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

DANIEL ALLEN LE CLERC, SR.,

Plaintiff,

v.

Case No. 3:24-cv-63-TJC-PDB

JOHN I. GUY and
MARK R. MILLER,

Defendants.

ORDER

On March 18, 2024, the Court entered an Order dismissing this case without prejudice under 28 U.S.C. § 1915(e)(2)(B). See Order (Doc. 2). On April 2, 2024, Plaintiff filed a Notice of Appeal (Doc. 4), and he requests to proceed in forma pauperis on appeal (Doc. 8). Upon review of the file, the Court finds that the appeal is not taken in good faith under Rule 24(a)(3) of the Federal Rules of Appellate Procedure and 28 U.S.C. § 1915(a)(3). Thus, Plaintiff is not entitled to appeal as a pauper, and his request (Doc. 8) is **DENIED**.

Plaintiff is hereby assessed the total \$605.00 appellate filing and docketing fees in this case. Because Plaintiff has less than \$10.00 accrued in his prison trust fund account, the Court will not require Plaintiff to pay an initial partial filing fee as provided in 28 U.S.C. § 1915(b)(1).

As funds become available in Plaintiff's prison account, he shall be required to make monthly payments of twenty percent of the preceding month's income (that is, all funds deposited into the account) credited to the account. Upon receipt of this Order, the agency having custody of Plaintiff shall forward payments from Plaintiff's account on a monthly basis to the Clerk of Court each time the amount in the account exceeds \$10.00. These payments shall continue until the appellate filing and docketing fees of \$605.00 are paid in full. The following information shall either be included on the face of the check from the penal institution, cashier's check, or money order or attached thereto: (1) the full name of the prisoner (**Daniel Allen Le Clerc, Sr.**); (2) the prisoner's inmate number (**#2019021114**); and (3) Middle District of Florida case number (**3:24-cv-63-TJC-PDB**). Checks or money orders which do not have this information will be returned to the penal institution.

Plaintiff is warned that he is ultimately responsible for payment of the appellate filing and docketing fees should the agency with custody over him lapse in its duty to make payments on his behalf. For this reason, if Plaintiff is transferred to another jail or correctional institution, he should ensure that the new institution is informed about this appeal and the required monthly payments as set out herein. Plaintiff is advised to retain a copy of this Order for this purpose.

The **Clerk** is directed to send a copy of this Order to the Administrator, Inmate Trust Funds at Plaintiff's current place of incarceration.

DONE AND ORDERED at Jacksonville, Florida, this 20th day of May, 2024.



Timothy J. Corrigan
TIMOTHY J. CORRIGAN
United States District Judge

caw 5/15

c:

Daniel Allen Le Clerc, Sr., #2019021114

Jacksonville Sheriff's Office, Administrator of Inmate Trust Fund Accounts
JSO Department of Corrections, Commissary Supervisor

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