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BENJAMIN BOSTON

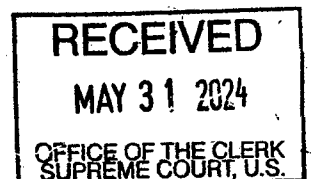
Benjamin Boston

SUPREME COURT OF
GEORGIA LAST RULE

3/5/2024

CASE# S2400602 - Apex'd

MAIL IN MAY 1 2024



APPEX FROM STATE
LAST RULING II



SUPREME COURT OF GEORGIA
Case No. S24O0602

March 5, 2024

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

BENJAMIN BOSTON v. MELODY MADDOX, SHERIFF.

Petitioner, who appears to be incarcerated and awaiting trial in two felony cases, seeks from this Court original relief in the form of mandamus against the superior court based on that court's allegedly unreasonable delay in providing him with a court date. He requests that this Court either release him from jail or compel the superior court to give him a court date. However, although this Court has the constitutional authority to grant original relief in the nature of mandamus, see Ga. Const. of 1983, Art. VI, Sec. I, Par. IV, it "has chosen to maintain its general status as an appellate court" and to exercise its original jurisdiction only in extremely rare situations where need has been shown. See *Graham v. Cavender*, 252 Ga. 123, 124 (311 SE2d 832) (1984). The Court has made clear that a petitioner cannot successfully invoke this Court's original jurisdiction as a way to circumvent the proper channels for obtaining the relief he seeks, at least not without making some showing that he is being prevented fair access to those channels. See *Gay v. Owens*, 292 Ga. 480, 482-483 (739 SE2d 614) (2013). Here, petitioner has failed to demonstrate that he was improperly frustrated in attempting to seek the requested relief from the appropriate superior court or that this is otherwise one of the "extremely rare" instances in which it would be appropriate for this Court to exercise

30 MONTHS
NO COURT DATE
IS EXTREMELY
RARE

its original jurisdiction. See *Brown v. Johnson*, 251 Ga. 436 (306 SE2d 655) (1983). Accordingly, his original petition is dismissed.

All the Justices concur.

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

 , Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

BENJAMIN BOSTON,
Petitioner.

PRISONER HABEAS CORPUS
28 U.S.C. § 2241

V.

MELODY MADDUX,
Respondent.

CIVIL ACTION NO.
1:22-CV-04947-CAP-CMS

ORDER FOR SERVICE OF REPORT AND RECOMMENDATION

The Report and Recommendation of the United States Magistrate Judge, made in accordance with 28 U.S.C. § 636(b)(1), Federal Rule of Civil Procedure 72(b), and this Court's Local Rule 72, has been filed. The Clerk is **DIRECTED** to serve a copy of the Report and Recommendation, together with a copy of this Order, upon counsel for the parties and upon any unrepresented parties.

Within fourteen (14) days of service of this Order, a party may file written objections, if any, to the Report and Recommendation. *See* 28 U.S.C. § 636(b)(1)(C). If objections are filed, they shall specify with particularity the alleged error or errors made (including reference by page number to the transcript if applicable) and shall be served upon the opposing party. The party filing objections will be responsible for obtaining and filing the transcript of any evidentiary hearing for review by the district judge assigned to this case. If no objections are filed, the Report and Recommendation may be adopted as the opinion

state proceeding “unless it plainly appears that this course would not afford adequate protection.” Younger, 401 U.S. at 45 (internal quotation marks omitted).

Abstention is required because “courts of equity should not act to restrain a criminal prosecution[] when the moving party has an adequate remedy at law and will not suffer irreparable injury if denied equitable relief.” *Sprint*, 571 U.S. at 77 (ellipsis and internal quotation marks omitted); *see also Younger*, 401 U.S. at 43 (“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.”). Equitable relief is available only in “extraordinary circumstances.” *Younger*, 401 U.S. at 53. “Dismissals pursuant to the *Younger* abstention doctrine are without prejudice.” *Hale v. Pate*, 694 F. App’x 682, 684 (11th Cir. 2017) (citing *Old Republic Union Ins. Co. v. Tillis Trucking Co.*, 124 F.3d 1258, 1264 (11th Cir. 1997)).

Petitioner alleges that he has been held without an indictment for 22 months. (Doc. 1 at 5). Records from the State Court of DeKalb County show that Petitioner has been charged with giving false name, address, or birthdate to law enforcement officer—a misdemeanor—for an offense committed on October 23, 2021, and his case remains active and pending. *State v. Boston*, No. 22C01614, *DeKalb Cnty. Jud. Info. Sys.*, <https://ody.dekalbcountyga.gov/portal/Home/Dashboard/29> (last visited Oct. 5, 2022). In particular, an arraignment was scheduled to held on October 3,

it is unfortunate that a significant amount of time has passed while Petitioner remains in pretrial detention without an indictment, there is no indication that Petitioner is unable to seek relief in state court. This Court therefore must abstain from interfering with Petitioner's state criminal proceedings.² *See Sprint*, 571 U.S. at 81; *Younger*, 401 U.S. at 45. Accordingly, it is **RECOMMENDED** that this action be **DISMISSED without prejudice**.

II. CERTIFICATE OF APPEALABILITY

Pursuant to Rule 11 of the Rules Governing Section 2254 Cases, “[t]he district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant. . . . If the court issues a certificate, the court must state the specific issue or issues that satisfy the showing required by 28 U.S.C. § 2253(c)(2).” Section 2253(c)(2) states that a certificate of appealability may issue

functioning of state judicial processes. He comes to federal court, not in an effort to forestall a state prosecution, but to enforce the Commonwealth's obligation to provide him with a state court forum.”); *Gerstein v. Pugh*, 420 U.S. 103, 108 n.1 (1975) (concluding that a claim for prompt probable cause determinations was not barred by *Younger*), here, Petitioner seeks release and the dismissal of his criminal case, (see Doc. 1 at 5), and the Court therefore must abstain under *Younger*.

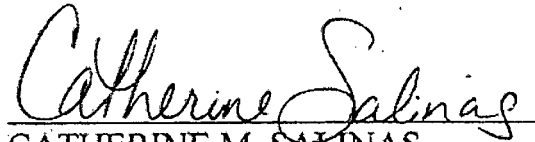
² Petitioner also appears to raise civil rights claims. (See Doc. 1 at 4-5). However, such claims are inappropriate in a habeas action. *See Boyd v. Warden*, 856 F.3d 853, 865 (11th Cir. 2017) (explaining that “habeas and § 1983 are mutually exclusive avenues for relief” (internal quotation marks omitted)). In any event, Petitioner previously filed a 42 U.S.C. § 1983 action that is currently stayed pending the resolution of his criminal case. *Boston v. Maddox*, No. 1:22-cv-00218-CAP (N.D. Ga. filed Jan. 18, 2022).

III. CONCLUSION

For the reasons stated above, it is **ORDERED** that Petitioner's application for leave to proceed in forma pauperis (Doc. 2) be **GRANTED**; and it is **RECOMMENDED** that this action be **DISMISSED** without prejudice and a certificate of appealability be **DENIED**.

The Clerk is **DIRECTED** to terminate the referral to the undersigned.

SO ORDERED AND RECOMMENDED, this 3rd day of February, 2023.

A handwritten signature in cursive script, reading "Catherine Salinas", written in black ink.

CATHERINE M. SALINAS
UNITED STATES MAGISTRATE JUDGE

STATING CLAIMS - CONTENTS

FIFTH AMENDMENT: RIGHT TO BE TRIED BEFORE A GRAND JURY.. BY NOT INDICTING ME OVER 18 MONTH STATUTES ARE GROUNDS FOR UNREASONABLE DELAY "DOUGGETT V. U.S" VIOLATION OF DUE PROCESS FOR EACH (POSSESSION OF A FIREARM CASES ALSO 5 COUNTS OF TERRORISTIC THREATS)

FOURTEENTH AMENDMENT: DUE PROCESS CLAUSE UNREASONABLE DELAY "PROCESSES OF LAW ROBERTS V. COUNTY COURTS OF WYOMING COUNTY A.D. 20 246, 253, 333 N.Y.S 2D. 882, 890 (4TH DEPT. 1972)

EIGHTH AMENDMENT: DELIBERATE INDIFFERENCE DEKALB COUNTY JAIL SHERIFF MELODY MADDOX ACTUALLY KNEW OF UNTRAIN STAFF HARM OF GIVING ME SOME OTHER PERSON NAME. I EXHAUSTED BY FILING MANY GRIEVANCES THAT NEVER WAS CONSIDER. FARROW V. WEST, 320 F. 3D 1235, 1245 (11TH CIR. 2003)...

FINKELSTEIN V. SPITZER, 455 F. 3D 131, 133 (2D CIR. 2006) PETITIONER'S CUSTODY IS IN VIOLATION OF THE CONSTITUTION

STRICKLAND TEST: STRICKLAND V. WASHINGTON, 466 U.S 668, 694, 104 S. CT. 2052, 2068, 80 L. ED. 2D 674, 698 (1984) "PREJUDICE HAS BEEN SHOWN BY NOT FILING MY 'STATE HABEAS CORPUS'.. ALSO UNPROFESSIONAL ACT OF MY COUNSEL OF NOT

THESE ACTIONS THAT ARE NEEDED DUE TO THE
GOVERNMENT UNREASONABLE DELAY OF INDICTMENT.
THIS MAKES MY COUNSEL INEFFECTIVE ASSISTANCE
SCARPA V. DUBOIS, 38 F. 3D 1,6 (1ST CIR. 1994); JANOSKY
V. ST. AMAND, 594 F. 3D 39,44 (1ST CIR. 2010)

FUNDAMENTAL MISCARRIAGE OF JUSTICE: "ACTUAL
INNOCENCE" MURRAY V. CARRIER 477, U.S. 478, 495 -
96, 106 S. CT. 2639, 2649, 91 L. ED. 2D 397, 413 (1986)
FEDERAL COURTS CAN GRANT THE WRIT OF HABEAS
CORPUS DUE TO MY DUE PROCESS RIGHTS OF THE
5TH AMENDMENT WERE VIOLATED BECAUSE I WAS
GAVE SOME ONE ELSE'S NAME AND CHARGES IN
(FRANKLIN COUNTY) I WAS ALSO GIVEN NEW CHARGES
DUE TO DEKALB COUNTY JAIL STAFF SAID I LIE'D
ABOUT MY NAME (STATE V. BOSTON, NO 22C01614)
THIS IS A CONSTITUTIONAL VIOLATION "FALSE OR
MALICIOUS ARREST" WHICH IS DETENTION WITHOUT
THE PROCESS OF LAW. . .

FEDERAL COURTS CAN HAVE JURISDICTION IF CERTAIN JURISDICTIONAL ~~REQUIREMENTS~~ PREREQUISITES ARE SATISFIED ARNAIZ V. WARDEN, FED SATELLITE LOW, 594 F.3D 1326, 1328 (11TH CIR. 2010); I'M IN CUSTODY.. PATEL V. U.S ATT'Y GEN, 334 F.3D 1259, 1263 (11TH CIR. 2003); I'VE ALSO EXHAUSTED ALL STATE REMEDIES LIBERTIES RESTRAINED PATEL, 334 F.3D AT 1263.. TYPICAL HABEAS CORPUS REMEDY IS RELEASE FROM CUSTODY ARNAIZ, 594 F.3D AT 1329.... FEDERAL COURTS STATED I MUST SHOW "EXTRAORDINARY REASON" DOC 3 PAGE 4 OF 7 THE REASON TO INTERVIEW (THE STATE HAS VIOLATED FEDERAL AND STATE RIGHTS BY NOT TRYING ME IN A REASONABLE TIME "EXHIBITS ARE IN THESE OBJECTIONS" ANDREWS V. STATE, 175 GA. APP. 22, 23-25, 332 S.E 2D 299 (1985) SPEEDY TRIAL CLAUSE / DISCOVERY IS NEEDED TO WORK ON CASE BUT NOT INDICTED; 5TH AND 14TH AMENDMENT DUE PROCESS VIOLATIONS PROCEDURAL DUE PROCESS VIOLATIONS)...

ALSO ON DOUGGETT V. U.S., 505 US 647, 112 S. CT (2)
2686, 120 L. ED. 2D 520 (1992) "DELAY" . . .
STATE COURT HAS SHOWN INADEQUATE ACTION
VIOLATION OF DUE PROCESS OF ALL KINDS,
STATUTES OF LIMITATIONS VIOLATIONS ALSO "ACCESS
TO COURTS" . . . THIS GIVES FEDERAL COURTS
JURISDICTION DUE TO LOWER COURTS ERRORS
(UNREASONABLE DELAY 'DOUGGETT' VIOLATION,
6TH AMENDMENT VIOLATION 'RIGHT TO DISCOVERY')
THESE ARE EXTRAORDINARY ISSUES ALSO THIS
IS AN EXCEPTIONAL CIRCUMSTANCE CRAPP V.
CITY OF MIAMI BEACH, 242 F.3D 1017, 1019-1020
(11TH CIR. 2001) . . . DUE TO STATE COURTS
CONSTITUTIONAL VIOLATION GIVE MERIT TO
FEDERAL COURTS "SUPREMACY CLAUSE"
(RIGHT TO DUE PROCESS OF PRETRIAL DETAINEE)
WHICH IS THE SUBSTANCE OF THIS FEDERAL
HABEAS CORPUS . . . DOC 3 FILE 2/3/23 PAGE 3 OF
7 FEDERAL COURTS STATED "EQUITABLE RELIEF
IS AVAILABLE IN EXTRAORDINARY CIRCUMSTANCES
YOUNGER, 461 U.S. AT 53" . . . GEORGIA COURTS
OF APPEALS ALSO SUPREME COURTS OF GEORGIA

OVER LOOKED THE RIGHTS & DUE PROCESS VIOLATIONS,
STATUTES OF CONGRESS OF INDICTMENTS WERE
VIOLATED ALSO FALSE ARREST) WHICH ARE
VIOLATIONS OF LAW, PROCEDURE, POLICY OR CUSTOMS
OF THE COURT OF LAW... FEDERAL COURTS
ALSO STATED DOC 3 2/3/23 PAGE 4 OF 7 "I
HAVE NOT SHOWN STATE PROCESS WAS
INEFFECTIVE" I'M NOW FORWARDING "EXHIBITS"
3 STATE HABEAS CORPUS ALSO MOTIONS TO
DISMISS MY CHARGES AND STATE COURTS NEVER
GAVE ME A ANSWER NOR A COURT DATE IN
NOW 23 MONTHS... "STATE COURT ERROR"
FUNDAMENTAL MISCARRIAGE OF JUSTICE STOPPING
A ADEQUATE OPPORTUNITY TO SHOW FACTS IN
MY CASE (DUE TO STATE LACK EVIDENCE)
I MAY NEVER GET A HEARING KEENEY V. TAMAYO-
REYES, 504 U.S. 111, 112 S. CT. 1715, 1721, 118 L.
ED. 2D. 318, 330-31 "BUT" I TOOK ALL STEPS
LIKE PETITIONER IN RHODEN V. ROWLAND, 110 F.3D
1460 (9TH CIR. 1993) STATE COURTS HAS SHOWN ME
PREJUDICE NOT TAKING ME TO (BAIL HEARINGS,
NOT BEING INDICTED, NOT PROCESSING MY

THE SUPREME COURT STATED
STATE COURT ERROR (MERITS OF THE FACTUAL DISPUTE
WERE NOT RESOLVED - FALSE ARREST, NOT INDICTED)..
(STATE COURTS FACT-FINDING PROCEDURE DID NOT GIVE
ME FAIR HEARING - COURTS ~~KNOW~~ I CANT WRITE
LETTERS FROM JAIL SO HOW CAN 'I' MAIL BOMM
NOTS / ALSO HOW CAN I BE TWO PEOPLE - FALSE
ARREST) .. ALSO STATE COURTS FAULT BY NOT
GIVING ME 60 DAY HEARINGS 'I HAVENT HAD HEARING
IN NOW 23 MONTHS ... THE FEDERAL COURTS
ARE NOW NEEDED TO ISSUE A "ORDER TO
SHOW CAUSE" DUE TO I CANT "SHOW INNOCENCE"
JAIL STAFF IN MAIL ROOM KEEP MAIL RECORDS
THERE IS NO WAY I CANT MAIL OUT BOMM
NOT WITH OUT THIS JAIL POSTAL STAMPS ...
ALSO MY REAL NAME IS BENJAMIN BOSTON JR.
I'VE NEVER USE ANOTHER NAME CHECK ARREST
RECORDS ... ILLEGAL DETENTION GIVES HABEAS
COURT JURISDICTION OVER THE SUBJECT MATTER
~~██████████~~ GURLIACCI V. MAYER, 218 CONN. 531, 542
590 A. 2D 914 (1991); LECONCHE V. ELLIGERS, 215
CONN. 701, 709, 579 A. 2D. 1 (1990) ...

UNITED STATES DISTRICT COURT (1)
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

BENJAMIN BOSTON
V.

MELODY MADDOX

HABEAS CORPUS

28 USC **2254**

CIVIL ACTION NO.
1:22-CV-04947-CAPC

28 USC 2253(C)(2) DENIAL OF A CONSTITUTIONAL
RIGHT 7 OBJECTIONS 7

DUE TO THE STATE'S FAILURE TO TRY ME IN A
REASONABLE PERIOD OF TIME VIOLATES MY DUE
PROCESS RIGHTS UNDER GEORGIA AND UNITED
STATES CONSTITUTIONS (6TH Amendment ART. I, SEC
1 PARAGRAPH XI GEORGIA CONSTITUTION TO SPEEDY
TRIAL) BOSEMAN V. STATE, 263 GA. 730, 731, 438
S.E. 2D 26 (1994) "LENGTH OF THE DELAY 22
MONTHS" "REASON FOR DELAY JUDICIAL EMERGENCY
BUT DEADLINE REIMPOSED MAY 14 2021 FOR INDICTMENT
OCLGA 17-7-SO AN 17-7-SO.1" . . . THE U.S
SUPREME COURT REVIEWED THIS TYPE OF DELAY
IN DOUGGETT V. U.S., 505 U.S. 647, 112 S. CT.
2686, 120 L. ED. 2D 520 (1992) THE COURT FOUND
NEGLECTANCE (NOT INDICTING ME) CANT
PREPARE AN ADEQUATE DEFENSE . . . STATE
HAS NO ACCEPTABLE REASON FOR DELAY

... I THEN FILE A
"STATE HABEAS CORPUS" ON GROUNDS "3288.

INDICTMENTS AND INFORMATION DISMISSED AFTER
PERIOD OF LIMITATION SIX CALENDER MONTHS"

WHICH IS A DUE PROCESS VIOLATION ON 'DOUGHETT'
GROUND DELAY... DUE TO STATE COURT DEADLINES
FOR GRAND JURY WERE REIMPOSED STATE COURT
STILL VIOLATED DUE PROCESS OF GOING TO COURT...

I THEN FILE A PETITION FOR MANDAMUS TO
GEORGIA COURTS OF APPEALS THEY MISREAD
PROMULGATED FORMS THAT WERE SENT TO ME
FROM 'OFFICE/ADMINISTRATIVE OFFICE OF COURTS'
(IN THIS COMPLAINT IS PROOF THIS TOOK PLACE...;

I THEN EXHAUSTED REMEDIES TO GEORGIA
SUPREME COURTS THEY DISMISSED MY PETITION
FOR MANDAMUS (THIS COMPLAINT WILL SHOW PROOF
THIS TOOK PLACE...) "JURISDICTION" DUE TO
EXHAUSTED REMEDIES IM NOW FILE FEDERAL
HABEAS CORPUS 28 USC **2244** WAS ESTABLISHED
A CLOAK OF CORRECTNESS DUE TO BAD
DETERMINATIONS MADE BY STATE COURTS WHOSE
JUDGEMENT ARE NOW BEING CHALLENGED
(VIOLATING ACCESS TO COURTS, UNREASONABLE DELAY)

FEDERAL COURTS ARE NEEDED TO RULE ON 6TH (S)
AMENDMENT VIOLATIONS, 5TH AMENDMENT VIOLATIONS
ALSO 14TH AMENDMENT VIOLATIONS... FEDERAL
COURTS CAN MAKE A RULING ONCE ALL STATE
REMEDIES HAS BEEN EXHAUSTED... FEDERAL COURTS
ERRORED STATED THEY CANT RULE ON A PENDING
"1983 STAY" THAT DEALS WITH FALSE ARREST...
BUT COURTS CLEARLY STATED THE 1983 STAY CASE
MUST FIRST BE HANDLED IN 'STATE COURT'
WHICH I ALSO FILE A STATE HABEAS CORPUS
BUT WAS NOT GRANTED ACCESS TO COURTS...
THESE ISSUES GIVE'S FEDERAL COURTS
JURISDICTION AND CAN USE 28 USC **2241**
AS CORRECTNESS DUE TO ITS APPLICABLE...
THE RULES OF HABEAS CORPUS ARE EXHAUST
STATE REMEDIES BEFORE FILING IN ~~IN~~
FEDERAL COURTS (ACT OF FEB 18, 1785) DUE
PROCESS RIGHTS WERE VIOLATED "LIBERTY"...
FEDERAL HABEAS CORPUS IS AVAILABLE FOR
VIOLATING FEDERAL CONSTITUTION DUE PROCESS
OF LAW POWELL V. ALABAMA, 287 U.S 45,
(1932).....

ALSO FEDERAL COURTS NEEDS TO RULE ON FEDERAL
HABEAS CORPUS THAT DEALS WITH "FALSE ARREST"
DUE TO PENDING "STAY 1983 1:22-CV-0218-CAP"
UNDER HECK V. HUMPHREY, 512 U.S. 477 (1994)
"I MUST HANDDEL STATE CASE FIRST" BUT STATE
COURTS ARE NOT PROCESSING MY CASE NOR
GIVING ME ACCESS TO COURTS WHICH IS THE
REASON FOR THIS HABEAS CORPUS DEPRIVATION OF
FUNDAMENTAL OR CONSTITUTIONAL RIGHTS AND
MISCARRIAGE OF JUSTICE... I'M ASKING THE
COURTS IN GOOD-FAITH TO FULLY REVIEW THESE
EXHAUSTED COMPLAINTS ALSO GRANT ME FEDERAL
HABEAS CORPUS RELIEF DUE TO JUSTICE IS
NEEDED...

(1)

"CASE INVOLVING A PETITION UNDER 28
USC **2241**: CUSTODY VIOLATES THE
CONSTITUTION."

PURSUANT A JUDGMENT OF A STATE COURT IN
PREISER V. RODRIGUEZ, SUPRA, THE COURTS
SAID "IT IS CLEAR THAT THE ESSENCE OF
HABEAS CORPUS IS AN ATTACK BY A PERSON
IN CUSTODY UPON LEGALITY OF THE ~~CUSTODY~~
AND THE TRADITIONAL FUNCTION OF THE WRIT
IS TO SECURE RELEASE FROM ILLEGAL
CUSTODY 411 U.S. AT 484"... ALSO FEDERAL
COURTS ERROR BY STATING RULE 4 'LACK
JURISDICTION' 'THIS CASE HAS NO MERIT' 'NOR
DID I EXHAUST STATE REMEDIES' I'VE DONE
ALL MEANS OF 28 USC **2241**(3)... PENDING CASES
IN STATE COURT ARE UNINDICTED THERE SAID
REASON COV-19 BUT THAT AREA IS OVER RESPONDENT
MUST GIVE A BETTER REASON ON WHY THE DELAY
THIS IS WHAT GIVES THIS CASE ARGUABLE
MERITS... IN 28 USC **2241**(1) 1996 AMENDMENT
I HAVE THE BURDEN TO SHOW STATE COURT
"PROCEDURAL ERRORS" (FALE ARREST) (6TH AMENDMENT
RIGHT OF DISCOVERY-MUST BE INDICTED DUE PROCESS
VIOLATION) 'EXHIBITS WILL SHOW THESE FACTS'

"28 USC 2254(B)(1) AND (C) PROVIDE"

(B)(1) AN APPLICATION FOR A WRIT OF HABEAS CORPUS ON BEHALF OF A PERSON IN CUSTODY PURSUANT TO THE JUDGMENT OF A STATE COURT SHALL NOT BE GRANTED UNLESS IT APPEARS THAT-

(A) THE APPLICANT HAS EXHAUSTED THE REMEDIES AVAILABLE IN THE COURTS OF THE STATE; OR

(B)(i) THERE IS AN ABSENCE OF AVAILABLE STATE CORRECTIVE PROCESS; OR (ii) CIRCUMSTANCES EXIST THAT RENDER SUCH PROCESS INEFFECTIVE

TO PROTECT THE RIGHTS OF THE COURTS APPLICANT

ROSE V. LUNDY, 455 U.S. 509 (1982) "I FILE

MOTIONS IN STATE COURT ALSO FILE STATE HABEAS CORPUS (EXHIBITS) WILL SHOW DATES FILED"

I ALSO FILE PETITION FOR MANDAMUS TO GEORGIA

SUPREME COURT CASE WAS DISMISSED I WAS

SHOWN PREJUDICE ALSO GEORGIA STATE COURT

HAS BEEN BIAS AND I HAVE PROOF OF IMPROPER

PROCEDURAL DUE PROCESS . . .

UNITED STATES DISTRICT COURT NORTHERN (1)

DISTRICT OF GEORGIA (ATLANTA DIVISION)

BENJAMIN BOSTON

CIVIL NO.

V.

MELODY MADDOX

1:22-CV-4947-

CAP

2241 HABEAS [CERTIFICATE OF PROBABLE CAUSE]

IN ORDER FOR ME TO BE GRANTED THIS PROBABLE
CAUSE MOTION I MUST SHOW SUBSTANTIAL

DENIAL OF CONSTITUTIONAL RIGHTS BAREFOOT V.

ESTELLE, 463 U.S. 880, 893, 103 S. CT. 3383

3394, 77 L. ED. 2D 1090 (1983); 28 USC 2253

(C)(2) APPEALABILITY... WHICH IS IDENTICAL

GREEN V. JOHNSON, 116 F. 3D 1115, 1120 (5TH CIR. 1997)

HARDWICK V. SINGLETARY, 126 F. 3D 1312 (11TH CIR.

1997)... **DENIAL OF FEDERAL LAW:** BRINGING

CHARGES ON A PERSON IN BAD-FAITH VIOLATES

DUE PROCESS CLAUSE, PROCEDURAL DUE PROCESS

OF INVESTIGATION... REASONABLE DOUBT IS A

14TH AMENDMENT VIOLATION AND STATE COURT IS

BEING UNREASONABLE IN APPLYING SUPREME

COURT PRECEDENT FRY V. PLILER, 551 US 112

119, 127 S. CT. 2321, 168 L. ED. 2D 16 (2007)

IMPLICATE PRONG OF 2254(D) MCDANIELS V.

KIRKLAND, 813 F. 3D 770, 775 (9TH CIR. 2015)

EN BARE... I SHOWED FEDERAL COURT I EXHAUSTED

(2)
ALL STATE COURT Remedies EVEN IN THE NEXT
HIGHER COURT I WAS SHOWN BIAS ACTION BY NOT
GRANTING ME A WRIT OF MANDAMUS WHICH WAS
NEEDED TO COMPEL SUPERIOR COURT TO PROCESS MY
STATE HABEAS CORPUS.... DOMBROWSKI DOCTRINE
IS WHAT GIVES THIS CASE MERIT FEDERAL COURTS
HAS JURISDICTION TO HEAR A CASE WHERE STATE
COURT HAS VIOLATED THEIR OWN STATE LAW
OCCA 17-7-50 AND OCCA 17-7-50.1 DEADLINES
REIMPOSED MAY 14, 2021 "MEANING COURTS WERE BACK
RUNNING" BUT I STILL HAVE NOT BEEN INDICTED
NOR HAVE I SAW A COURT ROOM IN "TWO YEARS"
THESE ARE VIOLATIONS I WAS PREJUDICED BY THE
DELAY **BARKER** V. WINGO, 407 U.S. 514, 530, 92 S.
CT. 2182, 33 L. ED. 2D 101 (1972) EXCESSIVE DELAY
VIOLATED MY ACCESS TO COURTS AND PROSECUTION
HAS HAD DELIBERATE INTENT TO HARM DUE TO
I FORWARDED DISTRICT ATTORNEY 'COPIES' OF
HABEAS CORPUS PLUS PROOF HOW I COULD HAVE NOT
DONE THE CRIME THEY SAID I HAVE DONE (DISTRICT
ATTORNEY BROUGHT CHARGES ON WRONG PERSON)...
"I DON'T HAVE THE DUTY TO BRING MY SELF TO COURT"
BARKER 407 U.S. AT 527 "BUT" I TOOK RESPONSIBILITY
TRYING TO TAKE MY SELF TO COURT AND WAS SHOWN
DENIAL OF CONSTITUTIONAL RIGHTS...

5TH AMENDMENT VIOLATION - RIGHT TO BE TRIED (3)
BEFORE A "GRAND JURY" SO I CAN ADEQUATELY
PREPARE MY DEFENSE U.S V. HALDEMAN...
"AEDPA: STANDARD" BY STATE COURT "SUPERIOR"
COURT NOT RUNNING COURT ONCE COV-19 WAS OVER
DUE PROCESS VIOLATION BEGONE OCGA 38-3-60
JUDICIAL EMERGENCY MARCH 14, 2020 LAST
EXTENDED MAY 8 2021 AT 11:59 PM CASE NO. 21AP1131...
"DEADLINES FOR INDICTING DETAINED INDIVIDUALS
REIMPOSED AS OF MAY 14, 2021 OCGA 17-7-50 AND
17-7-50.1" ALSO THE GENERAL ASSEMBLY PASS A
BILL OCGA 17-7-170 AND 17-7-171 GIVING COURTS
REMEDIES IF PROSECUTION IS NOT READY IN
A LONG PERIOD OF TIME IS A PUNITIVE ACTION...
28 USC 2254(D)(2) EVIDENCE PRESENTED IN STATE
COURT IS "NONE" DUE TO I DID NOT DO THE
CRIME STATE COURT PROCLAIMS I DID DUE TO
I WAS ALREADY IN JAIL... THIS IS "CONTRARY"
TO SUPREME COURT INTERPRETATION... "COURT
MUST GO BY THE STATE LAWS OF THAT STATE IF
NOT THAT'S A 14TH AND 5TH AMENDMENT VIOLATION
DUE PROCESS, PROCEDURAL DUE PROCESS CLAUSE VIOLATION
ALSO FIRST AMENDMENT ACCESS TO COURTS VIOLATION!"...
ALSO THE BIGGEST VIOLATION "FUNDAMENTAL
MISCARRIAGE OF JUSTICE" ACTUAL INNOCENCE

(41)

MURRAY V. CARRIER, 477, US 478, 495, 96, 106
S. CT. 2639, 2649, 91 L. ED 2D 397, 413 (1986)....
I FILE MANY MOTION TO STATE COURT ALSO MY LAWYER
(WHICH I HAVEN'T TALK TO IN OVER A YEAR) EVEN
FILE STATE HABEAS CORPUS ON THESE SAME GROUNDS
AND NEVER GOT A ANSWER.. I EVEN FILE FOR
WRIT OF MANDAMUS IN GEORGIA COURT OF APPEALS
ALL THE WAY TO GEORGIA SUPREME COURTS
CASE NO. S2300426.. Due TO COV-19 STATE VIOLATED
THEIR OWN PROCEDURAL RULES THEIR SET RULES
OCCA 17-7-170 OCCA 17-7-171 FEDERAL COURTS NOW
HAVE JURISDICTION TO REVIEW THE MERITS
IN THIS CASE FREEMAN V. ATTORNEY GENERAL,
536 F.3D 1225, 1231 (11TH CIR. 2008) THE STATE
IGNORES THE PROCEDURAL BAR.. SUPERIOR COURT
BREACH THEIR DUTIES ALSO OTHER STATE COURTS LAWS
NOW FEDERAL COURT HAS JURISDICTION DUE TO
JUSTICE IS NEEDED PEOPLE V. CAMPBELL, 377 F.3D
1208, 1235 (11TH CIR. 2004) AND DAVIS V.
SINGLETARY, 119 F.3D 1471, 1479 (11TH CIR. 1997)....
"INDEPENDENT AND ADEQUATE STATE GROUNDS
DOCTRINE" DUE TO GEORGIA COURT OF APPEALS
NOT GRANTING ME A WRIT OF MANDAMUS FOR
SAID REASON "WRONG CERTIFICATE OF SERVICE"

5 TIMES I THEN FORWARDED WRIT OF HABEAS CORPUS
PETITION TO GEORGIA SUPREME COURT AND THE
WRIT WAS GRANTED DUE TO I SHOWED SUPREME
COURT GEORGIA COURT OF APPEALS ERRORED
AND I USE PROMULGATED FORMS FORD V.
GEORGIA, 498 U.S. 411, 423-24, 111 S. CT. 850
857, 112 L. ED. 2D 935, 944 (1991) STATE NOT
REGULARLY FOLLOWING THEIR OWN COURT RULES...

"FUNDAMENTAL MISCARRIAGE OF JUSTICE"

WAINWRIGHT V. SYKES, 433 U.S. 72, 84-85, 90-91
97 S. CT. 2497, 2505, 2508, 53 L. ED. 2D 594,
606-607, 610 (1977) AND COLEMAN V. THOMPSON, 501
U.S. 722, 750, 111 S. CT. 2546, 2546, 2564, 115
L. ED. 2D 640, 669 (1991) **AEDRA Grounds**

I HAVE SHOWED STATE COURT ACTUAL INNOCENCE
MURRAY V. CARRIER, BUT DISTRICT ATTORNEY OF
GEORGIA STILL IS HOLDING ME IN JAIL AND WILL
NOT INDICT NOR TAKE ME TO COURT WITHIN THEY
KNOW FOR A "FACT!" THEY HAVE THE WRONG
PERSON... FEDERAL COURTS HAS THE POWER TO
HEAR A PRETRIAL DETAINEE 2241 HABEAS CORPUS
IF HE SATISFY YOUNGER ABSTENTION HUGHES V.
ATT'Y GEN. OF FLA, 377 F.3D 1258, 1262 (11TH
CIR. 2004) FUNDAMENTAL MISCARRIAGE OF JUSTICE

VIOLATES U.S CONSTITUTION ALSO TAKES AWAY FUNDAMENTAL FAIRNESS..STATE COURTS HAS ERRORED, VIOLATED PROCEDURES ALSO VIOLATED MY ACCESS TO COURT DUE TO THERE ERRORS...

FEDERAL COURT IS MY ONLY HOPE OF FREEDOM OR FEDERAL COURTS COULD RULE ON THE STATE OF GEORGIA COURTS PROCEDURAL DUE PROCESS VIOLATIONS... IM ASKING IN GOOD-FAITH FEDERAL COURTS REVIEW THIS HABEAS CORPUS DUE TO JUSTICE IS NEEDED... I'VE EXHAUSTED ALL STATE REMEDIES BUT CASES ARE STILL PENDING AND NO ACTION HAS TAKEN PLACE IN TWO YEARS NOT EVEN A BAIL HEARING NOR HAVE I TALK WITH MY LAWYER WHAT OPINION DO I HAVE....

"MEMORANDUM OF LAW" → SPEEDY TRIAL CLAIMS VIOLATIONS *BARKER V. WINGO*, 407 U.S 514, 92 S. CT 2182, 33 L. ED 2D 101 (1972) "LENGTH OF DELAY" - 2 YEARS, REASON FOR DELAY COV-19 "BUT" OCGA 17-7-170 OCGA 17-7-171 Remedies FOR COV-19, THE DEFENDANT ASSERTION OF RIGHTS PROCEDURAL DUE PROCESS VIOLATION DELAY, PREJUDICE, FIRST AMENDMENT VIOLATION ACCESS TO COURT (DID NOT PROCESS STATE HABEAS CORPUS)... "OPPRESSIVE PRETRIAL INCARCERATION" *SMITH V. HOOEY*, 393 U.S 374, 377, 379, 89 S. CT. 575, 576 578, 21 L. ED 2D 607 (1969) "IMPAIR DEFENSE..."

UNITED STATES DISTRICT COURT NORTHERN ①
DISTRICT OF GEORGIA (ATLANTA DIVISION)

BENJAMIN BOSTON

V.

MELODY MADDOX

CIVIL NO.

122-CV-4947-

CAP

DOMBROWSKI DOCTRINE 2241 HABEAS

IN THIS CASE FEDERAL COURTS HAS MISUNDERSTOOD
THE FULL MEANING OF MY FEDERAL HABEAS
CORPUS.. I FILED STATE HABEAS CORPUS DUE TO
PROSECUTION BROUG CHARGES ON ME "TERRORISTIC
THREATS" A CASE THAT CLEARLY WILL HAVE
"REASONABLE DOUBT" DUE TO THE CRIME THAT WAS
SAID I DID WAS DONE FROM DEKALB COUNTY JAIL..
PROSECUTION STATE I WROTE 5 THREAT "LETTERS"
~~FROM~~ DEKALB COUNTY. DETAINEES ARE ONLY ALLOWED
TO WRITE POSTCARDS.. "OUTGOING MAIL" JAIL
OFFICIALS CENSORSHIP OUTGOING MAIL HAMMER V.
SAFFLE 1 NO 91-7038, 1991 U.S. APP. LEXIS 28730
(10TH. CIR. NOV 29 1991) ; WITHEROW V. PAFF, 52
F. 3D 264 (9TH CIR. 1995)... UNREASONABLE
DOUBT IS A 14TH AMENDMENT DUE PROCESS
CLAUSE VIOLATION "PRECEDENT"- FRY V. PLILER, 551
U.S. 112, 119, 127 S.C.T. 2321, 168 L. ED. 2D 16 (2007).
CAGE V. LOUISIANA, 498 U.S. 39, 111. S.C.T. 328, 112

(2)
L. ED 2D 339 (1990) IN CASE SUPREME COURT
FOUND ERROR REASONABLE DOUBT "GRAVE
UNCERTAINTY... STATE PROSECUTION ERROR BY NOT
APPLYING "MARTINEZ TEST TO OUTGOING MAIL"
I WAS IN JAIL 10 MONTHS WHEN THIS CRIME TOOK
PLACE "THERE IS NO WAY I DID THIS CRIME".....
FEDERAL COURTS THEN STATED DOC. NO. 3 YOUNGER
ABSTENTION DOCTRINE YOUNGER V. HARRIS, 401 U.S.
37 (1970) "1. THERE IS EVIDENCE OF STATE
PROCEEDINGS MOTIVATED BY BAD FAITH".. BY
PROSECUTION BRINGING CHARGES ON A PERSON IN
SAYING HE DID A CRIME NO ONE WILL FIND GUILTY
OF IS BAD-FAITH (SPEAKING ON THREAT LETTERS)..
ALSO OCGA 51-7-20 DETENTION WITHOUT JUDICIAL
PROCESS.. SEEMS LIKE BAD-FAITH SAYING I'M
SOME ONE AND DID A CRIME (COURT SAID MY REAL
NAME IS 'ZAKEE BASHIR BILAL') THIS IS
~~FALSE~~ FALSE IMPRISONMENT.. 2) IRREPARABLE
INJURY WOULD OCCUR - OF YOUNGER ABSTENTION
DOCTRINE... "DOMBROWSKI DOCTRINE" - FEDERAL
COURTS MAY ENJOIN A STATE PROSECUTION
INFRINGING CONSTITUTIONAL RIGHTS. THIS
DOCTRINE IS A EXCEPTION TO "YOUNGER DOCTRINE"
IF THE PROSECUTION EITHER IS BROUGHT

IN BAD-FAITH OR HAS A REAL HOPE OF SUCCESS (3)
BUT NEVERTHELESS CHILLS THE EXERCISE OF A
CONSTITUTIONAL RIGHT.. (YOUNGER ABSTENTION) →
CONVICTION "MIGHT" VIOLATE THE CONSTITUTION
'REASONABLE DOUBT' IN THE EVENT OF A SUCCESSFUL
PROSECUTION 'MIGHT GET INDICTED'... (DOMBROWSKI
DOCTRINE) → ARGUES THAT THE PROSECUTION ITSELF
BURDENS FEDERALLY PROTECTED RIGHTS AND WAS
EITHER BROUGHT FOR PURPOSE OF BURDENING
'PROSECUTION JUST FRAMED ME' THESE RIGHTS
OR HAS LITTLE HOPE OF SUCCESS. FEDERAL REVIEW
(COURTS) OF THE BURDEN OF BEING PROSECUTED IS
APPROPRIATE WITHOUT AWAITING CONCLUSION
TO THE STATE CASE DOMBROWSKI V. PFISTER,
380 U.S. 479 (1965) BRENNAN J.)... TO QUALIFY
UNDER THE DOMBROWSKI DOCTRINE AND PROHIBIT
"SHOW OF BAD FAITH" DUE PROCESS VIOLATION...
MY OVER ALL FEDERAL HABEAS CORPUS WAS DUE
TO STATE COURTS VIOLATION OF FIRST AMENDMENT
RIGHTS ACCESS TO COURTS.. I FILE STATE COURTS
HABEAS CORPUS 1/15/22 STATE COURTS HAS NOW
PROCESSED THESE HABEAS ~~STATE~~ CORPUSES AND
MOTIONS (I FORWARDED FEDERAL COURTS NOTES)
UNDER DOMBROWSKI DOCTRINE "FIRST AMENDMENT

ACCESS TO COURTS" IS A IRREPARABLE INJURY
BY HOLDING ME IN JAIL FOR A CRIME I DID NOT
DO "THREAT LETTER" ALSO ARRESTING ME MAKING
ME SOMEONE ELES BAD-FAITH SCOTT V. FREY, 330
F. SUPP. 365, 368 (ED. LA. 1972) MITCHELL J.)...

THIS COURT HAS DISCRETION TO ENJOIN THREATED
STATE CRIMINAL PROCEEDINGS IN ORDER TO
PROTECT THE EXERCISE OF FIRST AMENDMENT
RIGHTS AGAINST IMPAIRMENT BY A GROUNDLESS
OR BAD FAITH PROSECUTION ENTMT'S SYS. INC
V. SEDITA, 319 F. SUPP. 686, 689 (W.D.N.Y. 1970)
CURTIN J.)... THESE ARE CLAIMS I RAISED

IN "STATE HABEAS CORPUSES" ALSO "MOTIONS"

I FORWARDED THIS PROOF TO FEDERAL COURTS

"LACK AN ADEQUATE OPPORTUNITY YOUNGER, 401 U.S.
AT 49"... COURTS ALSO IN ERROR SAY A WRIT

OF MANDAMUS I FILE 3 MONTHS AGO ASKING

GEORGIA APPEAL COURTS TO COMPEL STATE

SUPERIOR COURT TO "PROCESS" MY STATE HABEAS
CORPUSES AND MOTIONS THAT I NEVER GOT A
RULING ON.. COURT OF APPEALS STATED "S TIMES"

WRONG FORMS.. I THEN SENT THE SAME WRIT

ON THE SAME FORME TO GEORGIA SUPREME
COURT (PETITION WAS GRANTED BUT DISMISSED)