ORIGINAL

No. 24-5796

IN THE
SUPREME COURT OF THE UNITED STATES



DEANDRE ARNOLD,

*Petitioner*,

v.

CHAD CHRONISTER ET AL,

*Respondent.*

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit

# PETITION FOR WRIT OF CERTIORARI

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## QUESTIONS PRESENTED

Whether Petitioner lack's standing to sue a Sheriff's Office or its employees under *Linda R.S.* for the alleged violation of a First Amendment right to petition law enforcement and for claims alleging the violation of a Fourteenth Amendment right in allegedly depriving Petitioner of a criminal procedural process?

Whether an alleged conspiratory to violate a citizens rights to file criminal information can be arguably construed as part of a prosecutorial function as stated in this court's ruling in *Buckley v. Fitzsimmons* to bar such suit for lack of standing under *Linda R.S.*?

Whether a judicial order is sufficient for disqualification of a Circuit Judge under *Liteky* if the judicial order in question evidences reasonable or actual appearances of bias, prejudice, partiality and/or antagonism as to make any fair judgment impossible?

Whether delays of the benefit of "appellate" briefing in the Circuit courts solely because of an individual's pauper's status violates the First and Fourteenth Amendment to the United States Constitution?

## PARTIES TO THE PROCEEDING

The Petitioner is Deandre Arnold and is the Appellant in the Eleventh Circuit Court of Appeals.

The Respondents are Chad Chronister, Sheriff of the Hillsborough County Sheriff's Office ("HCSO"), Deputy Gonzalez of the HCSO, Corporal Garry Gordon of the HCSO, Sergeant Cummings of the HCSO and Jane and John Does of the HCSO legal department, hereinafter the ("Appellees") in the appeal below. The Appellee's were never served summons nor participated in the district court or the appellate proceedings below as the district court action was dismissed *sua sponte* by the district court before the Appellee's were ever served.

## CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 29.6, Petitioner states that he has no parent company, and no publicly held company owning 10% or more of any stock.

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## PETITION FOR WRIT OF CERTIORARI

The Petitioner, Deandre Arnold, the appellant below, respectfully petitions the Court for a Writ of Certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit entered in on July 17th, 2024 and August 19th, 2024.

## ORDERS AND OPINIONS ENTERED BELOW

On 1/29/2024, Middle District Judge Thomas Barber for the Tampa Division entered an order dismissing the Petitioner's case for lack of jurisdiction. (App. A) On 3/15/2024, district judge Barber denied Petitioner's motion to proceed "in forma pauperis" ("IFP") on appeal. (App. B) On 7/17/2024 Circuit Judge Jill Pryor entered in an order denying Petitioner's motion to proceed "in forma pauperis" ("IFP") on appeal. (App. C.). On 8/19/2024, Circuit Judge Jill Pryor entered an order denying Petitioner's motion to disqualify. (App. D.)

## JURISDICTION

The Eleventh Circuit denied the Petitioner's motion to proceed in forma pauperis on July 17th, 2024, and the Petitioner's Motion to Disqualify on August 19th, 2024. This petition is timely filed pursuant to Supreme Court Rule 13.1. This court has jurisdiction under 28 U.S.C. 1254(1).

## STATEMENT OF THE CASE

### I. Background Facts

#### A. Petitioner's Complaint in the District Court.

On January 24th, 2024, the Petitioner ("Arnold") filed a diversity action against the Hillsborough County Sheriff's Office ("HCSO") in the Middle District Court of Florida for the Tampa Division contending that the HCSO willfully and knowingly violated his rights and caused him intentional infliction of emotional distress ("IIED") in response to three (3) attempts by Arnold to report criminal information. Within the introductory section of his suit, Arnold alleged he was a Plaintiff in multiple proceedings on the verge of proving that millions of Non-

Absent Parents could not be forced to do what they have not failed to do as Absent Parents and owed no financial obligations to any *other* household if they have not casted their child upon the public and burdened the other parent with financial support. [Id. Par. 1] Arnold alleged however, that he was the subject of a systematic conspiracy to cover-up an alleged ongoing criminal conspiracy to incarcerate him for nefarious purposes in other proceedings by way of the very support laws he was seeking to declare did not apply to him. [Id.] Arnold alleged that a criminal complaint forwarded to the HCSO by the Florida Attorney General accused his child's mother of child trafficking by her unlawfully retaining possession of their minor child knowing it would persuade or induce Arnold to submit himself to the jurisdiction of a court where a knowing corrupt plan to weaponize child support could be weaponized against him for the benefit of this conspiracy and a Hillsborough court clerk of simulating proceedings in Arnold's name in order to induce Patterson to file a child support action against him for the same benefit. [Id. Par 107-108].

Arnold alleged that when this specific forwarded criminal information was brought to the attention of the HCSO, that its legal department, whom Arnold had also alleged did not have the delegated duties of the sheriff to find probable cause, erroneously alleged that no criminal aspect to the complaint existed. [Id. Par. 234-235] Arnold alleged the HCSO would then take no action on his complaint in violation of his rights and caused him IIED. [Id. Par. 234-235, 238, 245-246, 249, 268-269]. Arnold had further alleged that the HCSO placed *conditions* on their acceptance of two (2) previous attempts of his to file criminal information based on an alleged policy that Arnold alleged was unconstitutional. [Id. 231-233, 236-237] However, Arnold alleged that their collective acts gave rise to substantial inferences that such refusals were not the result of their *alleged* policy but were deliberate to deny Arnold 1st Amend. rights in reporting crimes & to provide protection to those he accused of acting for the benefit of the conspiracy. [Id. Par. 2]

Specifically, Arnold alleged that on November 14th, 2023, he contacted the Hillsborough County State Attorney's Office ("HCSAO") to report allegations of criminal offenses of Florida statutes occurring in Hillsborough County Florida. [Id. Par. 41] Arnold alleged that the HCSAO stated to him that before a request for prosecution, investigation or any action related to criminal offenses committed in Hillsborough county could ever occur that the HCSAO had to first receive a police report from the HCSO, law enforcement or any documentation from the court or a judge entailing or related to criminal offenses having been committed or probable cause of the offenses committed. [Id. Par. 43]. Thus, on 11/14/2023, Arnold contacted the HCSO to make a police report against his child's mother for child concealment and child custodial interference. [Id. Par. 44] In lieu of taking the police report, Arnold alleged that Deputy Gonzalez of the HCSO instead inquired about the location of his child custody order and then conditioned the taking of his police report on his first filing of a family court action to domesticate his out-of-state child custody order in the State of Florida. [Id. Par. 231] This condition was alleged by Gonzalez and later confirmed by the HCSO to be pursuant to HCSO policy in which Arnold alleged was unconstitutional and effectuated in order to induce Arnold to seek a family court action where Patterson could then file a support contempt action against him. [Id. Par. 155-166, 253-254].

On November 21st, 2023, Arnold then sought to file a second police report against his child's mother ("Patterson") for child abuse and neglect. [Id. Par. 71] In lieu of taking the report, Deputy Baez of the HCSO too conditioned the taking of Arnold's criminal information on his performance of a secondary act – Arnold's physical appearance in a law enforcement office. [Id. Par. 85] This request was alleged by Baez and later confirmed by the HCSO to be pursuant to HCSO policy in which Arnold alleged was unconstitutional and effectuated in order to compel him to discontinue seeking criminal remedies against Patterson. [Id. Par 233, 254]. On December

12th, 2024, Arnold then mailed a criminal complaint to the Florida Attorney General alleging criminal acts in violation of Florida statutes occurring in Hillsborough County by Patterson and a Hillsborough County court clerk. [Id. 105] The Florida Attorney General's office responded to Arnold by stating that they had forwarded said criminal complaint to HCSO on December 27th, 2023. [Id. Par. 114] On January 23rd, 2024, Arnold came in contact with Lieutenant Cummings of the HCSO who stated that there legal department determined that there was no criminal aspect to the criminal complaint, that it was a civil matter which needed to be directed to the family court and that because there legal department had determined that no criminal aspect to the complaint existed, that the HCSO would not investigate nor take any other action on the complaint. [Id. Par. 127] Arnold alleged that the HCSO legal department's *findings* were illegitimate based on their lack of delegated authority of the Sheriff's office and stated in order to cloth the HCSO pre-determined refusals to act on Arnold's criminal complaint in conspiracy. [Id. Par. 257-259].

Arnold thus filed four (4) counts seeking damages in excess of $150,000.00 from each Appellee. Count one (1) was for the violation of the First Amendment; Count two (2) violation of Procedural due process; Count three (3) was for the issuance of a criminal referral; Count four (4) IIED; Count four #2 (4) Declaratory Relief; Count five (5) Attorney Fees. With respect to Arnold's first two (2) attempts to submit criminal information, Arnold alleged the HCSO violated his First and Fourteenth Amendment protections by refusing to accept his criminal complaints based on an alleged policy that Arnold alleged was unconstitutional. [Id Par. 229-233, 236-237, 240-244]. With respect to Arnold's third criminal complaint, Arnold alleged that the HCSO violated his First and Fourteenth Amendment rights by refusing to provide him a proper remedy in stating that no criminal aspect existed in the complaint and in their refusing to submit his complaint to HCSO officials with delegated investigative authorities. [Id Par. 234-235, 238, 245-

246, 249]. Arnold also sought damages for the intentional infliction of emotional distress for the violations of these rights. [Id. Par. 261-270] Arnold also sought the issuance of a criminal referral based on probable cause of violations of Title 18 USC §§ 241, 242. [Id. Par. 251-260].

II. **Statement of the Proceedings**.

B. Dismissal of Petitioner's Complaint by the district court, filing of a Notice of Appeal and the denial of pauper status on appeal.

On January 29th, 2024, less than 96 hours after the Complaint was filed, Florida Middle District judge for the Tampa Division, Thomas Barber, dismissed Arnold's action in an endorsed order for lack of standing. (App. A.). Judge Barber's endorsed order alleged the following, to wit:

"The basis of Plaintiff's complaint is the decision of the Sheriff's Office and individual officers to not accept a criminal complaint that Plaintiff wished to file against the mother of his child for alleged custodial inteference and child concealment. Plaintiff does not have standing to pursue his claims because he cannot demonstrate the causation and redressability elements of standing. . See, e.g., Linda R.S. v Richard D., 410 U.S. 615, 615-16; 618-20 (1973)." (App. A).

Judge Barber's order did not address any other criminal information or facts that Arnold alleged in his civil complaint. (App. A). On January 30th, 2024, Arnold then filed a motion to disqualify judge Barber which was denied precisely 32 minutes later. On February 29th, 2024, Arnold then filed a timely notice of appeal against the order dismissing his action. (Three days were added. See FRCP Rule 6(a)). On March 14th, 2024, Arnold then filed an IFP motion which was denied by judge Barber the next day on the grounds of frivolity. (App B).

C. Petitioner files Motion to proceed IFP in the United States Court of Appeals and motion to expedite a ruling on his IFP motion.

On February 29th, 2024, Arnold's appeal was docketed in the United States Court of Appeals for the Eleventh Circuit. After an extension request, on April 15th, 2024, the Petitioner filed his IFP motion in the court of appeals. On May 30th, 2024, Arnold filed an "Emergency Motion to Rule on IFP Motion within 8 days to Prevent An Impediment of Justice". In such

motion, Arnold contended that the 11th Circuit discriminated against him and pauper filers on the basis of their poverty absent the least restrictive means by burdening him under circuit court rules, which rules deprived him of the benefit of briefing until said court ruled on his motion to proceed IFP. [USCA11 24-10634, Doc. 15 pg. 9, 9-14] Arnold contended that the 11th Circuit treated him differently than paid filers who receive the immediate benefit of briefing on appeal.

D. Circuit court judge Jill Pryor denies Petitioner's Motion to proceed IFP and Emergency motion to rule on his IFP motion.

On July 17th, 2024, approximately ninety-three (93) days after Arnold filed his IFP motion in the court of appeals and during this court's summer term, Circuit Court Judge Jill Pryor entered in an order denying Arnold's IFP motion. (App. C. pp. 2). Judge Pryor's order to wit:

> "[T]he district court correctly dismissed Mr. Arnold's complaint, as he failed to allege what injuries he had suffered due to the defendant's failure to accept his criminal complaint... (See Lewis v Governor of Ala., 994 F. 3d 1287, 196 (11th Cir. 2019) (stating that, to establish Article III standing, a plaintiff must allege an injury in fact, traceability, and redressability)... Because Mr. Arnold has no non-frivolous issues on appeal, his motion for IFP is DENIED. His motion to expedite his appeal is also DENIED, as his assertions in support of the motion are meritless and do not establish good cause, as he has not established how he is differently situated than any other petitioner who believes the merits of his appeal." (App. C. pp. 2).

The clerk's procedural order gave Arnold notice of a fixed time to pay his filing fee within 14 days of said order to avoid dismissal of his appeal. (App. C. pp. 1).

E. Petitioner's Files Motion to Disqualify Circuit Judge Jill Pryor.

On July 23rd, 2024, a week after judge Pryor's order denying the Petitioner's IFP motion was entered, Arnold filed a Motion to Disqualify Judge Pryor contending that facts showed that judge Pryor had an actual or reasonable prerequisite intent to obstruct or to reach a decision adverse to him evidencing bias, partiality, prejudice and antagonism as to make a *fair* judgment impossible. Arnold alleged that the entry of Pryor's order denying his IFP motion evidenced an intent to reach a decision adverse to him because although she was presumed to know the law

and had the experience to apply it, the facts showed she abandoned the law and her experience to delay the rightful review of the order appealed from – the merits of the order dismissing his complaint. [UCSA 24-11-10634, Doc. 20, p. 1-5] Arnold based this contention on legal claims that showed that the denial of his IFP motion as frivolous was frivolous in of itself. [Doc. 20, p. 14-18]. The relief requested by Arnold was that Judge Pryor disqualify herself from his appeal and that her order denying his IFP motion be vacated and declared void. [Id. Pg. 21.]

F. Circuit Judge Jill Pryor denies Petitioner's Motion to Disqualify.

On August 19th, 2024, Circuit Judge Jill Pryor entered an order denying Arnold's motion to disqualify. (App. D.) Unlike her order denying Arnold's IFP motion which gave reasons for its denial, Judge Jill Pryor's order denying Arnold's motion to disqualify gave no reasons at all. Id.

G. Circuit Judge Jill Pryor and Adalberto Jordan denies Arnold motion for panel review of Judge Pryor's order denying his IFP motion.

Pursuant to 11th Cir. R. 27-2, orders denying pauper status are "subject to review by the court." The Petitioner sought such review on July 31st, 2024, by filing a Motion for Review of judge Jill Pryor's order denying his IFP Motion by a panel of the court. Such motion for review by a panel was construed as a Motion to Reconsider by judge Pryor and judge Jordan. On August 27th, 2024, Circuit judges Pryor and Jordan denied Arnold's construed motion to reconsider contending that Arnold "Offered no new evidence or arguments of merit to warrant relief."

H. The Circuit Court clerk's office dismisses Petitioner's appeal for failure to prosecute by failing to pay the filing fee within the time allotted by the rules.

On 8/27/2024 the Circuit clerk dismissed Arnold's appeal for failure to prosecute for failing to pay the filing fee within the allotted time fixed. This appeal followed seeking review of judge Jill Pryor's order dated 7/17/2024 denying Arnold's IFP motion and her order entered in on 8/19/2024 denying Arnold's disqualification motion.

## REASONS FOR GRANTING THIS WRIT

The grant of Certiorari is necessary because the United States Court of Appeals has so far departed from the accepted and usual course of judicial proceedings that it calls for an exercise of this Court's supervisory powers for judicial acts that exceed the jurisdiction of the lower court. The Circuit court's order denying Arnold's motion to proceed IFP on the grounds of frivolity comes on the helm of the circuit court's general application of *Linda R.S.* to allegations that do not involve any prosecutorial functions. In fact, Arnold's claims are based on Appellee's refusal to accept his criminal information to initiate a criminal process and claims of private attorney's employed by a Sheriff's Office's refusal to find probable cause whose delated authority to find such probable cause had been questioned. Similar to this court's reigning in on lower Federal court's dismissal of complaint's based on the Domestic Relations exception in *Ankenbrandt*, similarly, a zeroing in is necessary to prevent lower Federal court's general application of *Linda R.S.* in barring claims that do not involve a matter of prosecutorial functions or even prosecutors themselves. As to the Eleventh Circuit, such zeroing in is especially necessary as the Eleventh Circuit has concluded that these precise claims are frivolous and that a federal plaintiff lacks standing pursuant to *Linda R.S.* to bring such claims. Further, this case is compelling because there has been no case to Arnold's knowledge in which *Linda R.S.* has been applied to claims of a Sheriff's office assisting in the initiation of a prosecution and this case is an excellent case.

### I. LINDA R.S. DOES NOT APPLY TO IIED TORT CLAIMS ARISING FROM THE VIOLATION OF A FIRST AMENDMENT RIGHT IN A SHERIFF'S OFFICE REFUSAL TO ACCEPT CRIMINAL INFORMATION.

Arnold alleged that on 11/14/2023 and 11/21/2023 that Deputy Baez and Gonzalez of the HCSO both had *conditioned* the acceptance of his criminal information on the basis of an alleged policy. Specifically, Arnold alleged that on 11/14/2023, Deputy Baez conditioned the acceptance

of his criminal information alleging custodial interference & child concealment against his child's mother on the condition that he domesticated his out-of-state child custody order in a Hillsborough County family court. [Arnold's Civil Complaint, 8:24-cv-00235, Doc. 1 Par. 231]. Arnold then alleged on 11/21/2023, that Deputy Baez conditioned the acceptance of his criminal information alleging child abuse & child neglect against his child's mother on the condition that he physically presented himself within a law enforcement agency to do so. [Id. Par. 234] The entire basis for Deputy Gonzalez's and Baez's quid pro quo *conditions* were allegedly based on the policy of the HCSO which Arnold alleged was later confirmed by the HCSO itself to in fact be pursuant to their policy. [Id. Par. 236-237]. Arnold contended that these acts violated his First Amendment right to petition law enforcement. [Id. Par. 229-239].

The Eleventh Circuit court erred in concluding that Arnold lacked standing under *Linda R.S.* because Arnold's claims here never sought to hold the Appellee's liable for any failure to prosecute any criminal offender. This court said in *Linda R.S.* long ago that "[A] private citizen lacks a judicially cognizable interest in the prosecution or nonprosecution of another." *Id. at 619, 93 S.Ct. 1146.*; It has too been said in the circuit courts below that "[T]he absence of this **right**... stems from the special status of criminal prosecutions in our system, which rejects a direct nexus between the vindication of [the victims'] interest[s] and enforcement of the State's criminal laws." *Parkhurst v. Tabor, 569 F. 3d 861 Court of Appeals 8th Circuit (2009)*. Arnold's claims were not based on any right to the prosecution of another, but rather the violation of Arnold's right to petition law enforcement. The "[F]iling [of] a criminal complaint with law enforcement officials... [is] an exercise of the First Amendment **right**" to petition the government for the redress of grievances." *Meyer v. Board of County Com'rs Harper County Oklahoma 482 F.3d*

*1232 (2007)*; *See also e.g., Lott v. Andrews Ctr., 259 F. Supp. 2d 564, 568 (E.D. Tex. 2003)*) ("Stating that there is "no doubt" as to the existence of this **right**."). The 11th Circuit erred.

## II. LINDA R.S. DOES NOT APPLY TO IIED TORT CLAIMS ARSING FROM THE VIOLATION OF A FIRST AMENDMENT RIGHT IN A SHERIFF'S OFFICE EERENOUS FAILURE TO FIND PROBABLE CAUSE.

On 12/12/2023, Arnold alleged that he mailed a criminal complaint to the Florida Attorney General's Office who in turn forwarded the criminal complaint to the HCSO on 12/27/2023. [Arnold's Civil Complaint, 8:24-cv-00235, Doc. 1 Par. Par. 114] On 1/23/2024, Arnold alleged Sergeant Cummings of the HCSO stated that there legal department determined that **there was no criminal aspect to the complaint** and that it was a civil matter which needed to be directed to the family court and that because there legal department had determined that no criminal aspect to the complaint existed that, the HCSO would not investigate nor take any other action. [Id. Par. 127] Arnold alleged that the HCSO legal department's *findings* were illegitimate because the HCSO's "legal department" were private attorneys who lacked the delegated investigative authority of the Sheriff's Office to find such probable cause. [Id. Par. 139, 148] Arnold contended that these acts violated his First Amendment rights to file a grievance because it prevented his greivances from going to officers or detectives *with* such delegated investigative duties of the Sheriff. [Id. Par. Id, 238] Arnold also alleged that the HCSO legal department *refused* to find *actual* probable cause and had stated no criminal aspect to the criminal complaint existed in order to cloth the HCSO's pre-determined refusals to act on Arnold's criminal complaint, in conspiracy. [Id. Par. 235, 257, 260]. Arnold contended these specific acts violated his promised protections to receive a *proper* remedy under the First Amendment. [Id. 235].

The Eleventh Circuit court erred in concluding that Arnold lacked standing under *Linda R.S.* because neither of these claims here are based on a right to the prosecution of another which

stems from a public interest in the "[V]igorous and fearless performance of the *prosecutor's* duty that it essential to the proper functioning of the criminal justice system." *Imbler v. Pachtman, 242 U.S. 409 (1976)*. Here, Arnold's claims allege that the HCSO refused to find probable cause and also lacked the delegative *investigative* authority to find any probable cause to begin with. It has been stated that if the "[D]efendants activities did not involve the initiation or conduct of a criminal prosecution [,] their activities were *investigative*, not prosecutorial, in nature." *Rakovich v. Wade, 819 F. 2d 1393 (7th Cir. 1987)*. Thus, to contend that Arnold's appeal was frivolous based on claims of a refusal to find probable cause by private attorney's whose delated authority to find such probable cause was questioned, outrageously conflicts with this court's decision in *Buckley* if not outright wars against it. *Buckley's* dominant instruction is clear. "[A] prosecutor neither is, nor should consider himself to be an advocate before he has probable cause to have anyone arrested." *Buckley v. Fitzsimmons, 509 US 259 – Supreme court (1993)*. Thus, the grant of Certiorari is necessary because the Eleventh Circuit has so far departed from the accepted and usual course of judicial proceedings that an exercise of this Court's supervisory powers is warranted to bring such court within the bounds of this court's dominant instruction.

## III. LINDA R.S. DOES NOT APPLY TO IIED TORT CLAIMS ARSING FROM VIOLATIONS OF PROCEDURAL DUE PROCESS BASED ON CLAIMS OF A SHERIFFS OFFICE REFUSAL TO ACCEPT CRIMINAL INFORMATION

Arnold alleged in his complaint that the Hillsborough County State Attorney's Office ("HCSAO") alleged that before it could investigate or initiate any criminal prosecution that it had to receive a police report from the HCSO, law enforcement or other documentation from the court or a judge entailing or related to criminal offenses having been committed or probable cause of the offenses committed. [Arnold's Civil Complaint, 8:24-cv-00235, Doc. 1 Par. 41]. **Based on each act of the Appellee's stated above**, Arnold contended the Appellee's collectively

violated his procedural due process rights because each of their acts prevented him from initiating the criminal process. [Id. Par. 8, 240-250]. The Eleventh Circuit too contended that these claims were frivolous – lacking any arguable basis in law or fact. (App. C.).

Such decision is beyond far outside this court's decision in *Neitzke* on what assertions are frivolous and what assertions are wrong. This court "[H]as explained the difference between an assertion that is frivolous and an assertion that is wrong... An assertion is not frivolous *unless* it lacks an arguable basis in either law or fact." *Daker v. Commissioner, Ga Dept. of Corrections, 820 F. 3d 1278 (2016)*. The Eleventh Circuit's decision conflicts with this court's decision in *Leeke* on matters that *may* be subject to challenge that does deal with criminal prosecutions. In *Leeke*, this court dismissed a § 1983 suit on the basis of standing. However, it suggested that inteference with plaintiff's ability to seek the arrest of another may establish standing. "[T]he Supreme Court noted that the case **may be different** if the prison officials interfered with the plaintiffs' ability to provide information to the magistrate. Id. at 87." *Howse v. Atkinson, Civil See Howse v. Atkinson, Civil Action No. 04-2341-GTV, Dist. Court, D. Kansas (May 4 2005)* Surely, if this court suggested that standing would be present where prosecutorial matters *were* present, then standing is certainly present in a case where it is alleged that a Sheriff's Office deprived Arnold of his right to file criminal information and that its legal department had refused to find probable cause when presented with criminal information in which probable cause existed. This is certainly so where the complaint alleges that Appellee's done so knowingly and willingly, in conspiracy. Thus, notwithstanding the fact that no prosecutorial functions were present in this case consistent with *Buckley*, to state that Arnold's complaint was frivolous for the lack of standing pursuant to *Linda R.S.* was frivolous in of itself and so far outside the usual course of judicial proceedings that this court's supervisory powers must be vigorously exercised.

## IV. THE ELEVENTH CIRCUIT'S DECISION CONFLICTS WITH THIS COURT'S DECISION IN *BUCKLEY.*

Although completely failing to address a third of Arnold's claims in his complaint, Circuit judge Jill Pryor contended that Arnolds's claims were frivolous as "the district court properly dismissed Mr. Arnold's complaint as he failed to allege what injuries he had suffered due to the defendants failure to accept his criminal complaint. See Lewis v Governor of Ala.., 944 F. 3d 1287, 1296 (11th Cir. 2019)... (stating that, to establish Article III standing, a plaintiff must allege an injury-in-fact, traceability, and redressability)." (App. C.) Pryor's claims were in lockstep with the district court's claims who too completely failed to address a third of Arnold's claims in his order in stating that "Plaintiff does not have standing to pursue his claims because cannot demonstrate the causation and redressability elements of standing. **See, e.g., Linda R.S. v Richard D., 410 U.S. 615, 615-16; 618-20 (1973)...** In short, Plaintiff cannot identify any redressable injury on these facts, and any alleged injuries suffered are not fairly traceable to the alleged failure to accept the criminal complaint for filing." (App. A.) Thus, the Eleventh Circuit generally dismissed Arnold's complaint on the grounds of its being barred by Linda R.S. for the lack of standing. Arnold contends that *Linda R.S.* could not have applied to the facts of his case because no prosecutorial function or matter was involved in his action as stated in *Buckley* for his claims to be barred under *Linda R.S.* which rejects "standing" for claims of individuals asserting a right to the prosecution or nonprosecution of another.

This court stated in *Buckley* that "[A] prosecutor neither is, nor should consider himself to be an advocate **before he has probable cause to have anyone arrested**." *Buckley v. Fitzsimmons, 509 US 259 – Supreme court (1993)*. As is relevant, "[T]hose acts must include the professional evaluation of the evidence assembled by the police and appropriate preparation for its presentation at trial or before a grand jury after a decision to seek an indictment has been

made." *Id.*. Justice Scalia, concurring in *Buckley*, also stated "[I]t is certainly in accord with the principle to say that prosecutors cannot "properly claim to be acting as advocates" before they have probable cause to have anyone arrested." *Buckley v. Fitzsimmons, 509 US 259 – Supreme court (1993)*. The facts of Arnold's case affirmatively show that no prosecutorial matter was involved. Arnold's claims were based on three presentments of criminal information to the HCSO. The first two were conditioned on Arnold's performance of a secondary act, while the third was reviewed by private attorneys who Arnold alleged lacked the delegated authority of the Sheriff's office to find any probable cause and who too stated that **no criminal aspect to the criminal complaint existed**. None of these acts "[I]nvolve the initiation or conduct of a criminal prosecution, their activities were [if barely anything,] investigative, not prosecutorial, in nature." *Rakovich v. Wade, 819 F. 2d 1393 (7th Cir. 1987)*.

Also "[I]n *Buckley*... the Supreme Court held that the prosecutors were not absolutely immune for allegedly fabricating evidence **because they lacked 'probable cause to arrest the petitioner or initiate judicial proceedings'**... Thus, the prosecutors' mission at that time was entirely **investigative** in character." *Singleton v. Cannizzaro, 956 F. 3d 773 – Court of Appeals, 5th Circuit (2020)*. Arnold's claims alleged against the Sheriff's office in his complaint are not and cannot be classified as prosecutorial or even assisting a prosecutorial function to be arguably applicable to *Linda R.S.* because the facts are that the HCSO conditioned the acceptance of criminal information to begin the phase to start a criminal prosecution on Arnold's performance of a secondary act and stated there was no criminal aspect to the other criminal complaint provided. Thus, to consider any of the facts frivolous as being barred by *Linda R.S.* whose holding is only in reference to claims alleging a right to the prosecution of another was frivolous in of itself because *Linda R.S.* cannot apply if the claims do not allege a prosecutorial function

consistent with *Buckley's* holding. Arnold's claims cannot arguably be construed as impinging on the public interests in the "[V]igorous and fearless performance of the *prosecutor's* duty that it essential to the proper functioning of the criminal justice system." *Imbler v. Pachtman, 242 U.S. 409 (1976)*. If anything, Arnold's interest can be construed to be "[I]n the efficient enforcement of the criminal law." *Minard v. Boss Hotels Co., 40 N.W.2d 276 (Iowa 1950)*. Because "[E]ven when a citizen is willing to burden himself... with the responsibility of swearing out a private complaint, he... does not attain an interest that surpasses that of the general public in seeing the wrongdoer brought to justice. However, having sworn out the complaint, the private complainant does have an interest in ensuring that the district attorney properly exercises his or her authority." *In re Hickerson, 2000 Pa. Super. 402 (Pa. Super Ct. Dec 21, 2000)*. The 11th Circuit erred.

## V. CIRCUIT JUDGE JILL PRYOR WAS DISQUALIFIED UNDER *LITEKY*.

"[T]o satisfy the requirements of Section 455(a), a party seeking recusal must offer facts, and not merely allegations, that evidence partiality." *US v. Montemayor, Dist. Court ND No. 1:09-cr-00551-WSD-2 (2016)*. Further, "[S]ome extrajudicial matter is neither a necessary nor a sufficient condition under any of the recusal statues." *Liteky v. United States, 510 US 540 Supreme Court (1994)*. This court has never held that all judicial rulings were not sufficient to disqualify a judge. "[W]e said in *American Steel Barrel* that the recusal statue "was never intended to enable a discontented litigant to oust a judge because of adverse rulings ... but to prevent his future action in the pending cause." *Id.* This court made clear that the only reason adverse rulings "alone" could not satisfy the disqualification of a federal judge is only because, "[T]hey cannot possibly show reliance upon an extrajudicial source; and can only in the rarest circumstances evidence the degree of favoritism or antagonism required when no extrajudicial source is involved." *Id.*

Arnold argues that there must be a line between good faith judicial error and bad faith judicial rulings and conduct entered with an intent to reach a decision adverse to any litigant. Arnold contends this dividing line has been already drawn by this court in *Liteky*. In *Liteky*, this court stated, "[A] prospective juror in an insurance-claim case may be stricken as partial if he always voters for insurance companies; but not if he always votes for the party whom the terms of the contract support." *Liteky v United States, 510 US 540 - Supreme Court (1994)*. Arnold contends that following *Liteky,* this dividing line can be especially identified by placing judicial rulings having an arguable basis in law or fact on one side and by placing those judicial rulings that "affirmatively" do not on the other. Arnold contends that right along with judge Pryor's presumption and experience to know what the law clearly demands as a judicial officer, the law itself and any reasonable claims supported by facts as to why judge Pryor would depart from the law and her experience, that it is easy to identify that judge Pryor's order entered in on July 17th, 2024, is an adverse ruling that affirmatively resides on the latter of this dividing line – bad faith.

(i) Judge Pryor's refusals to disqualify was required under this Court's Opinion in *Likety*.

As with *Linda R.S.'s* inapplicability to cases that do not allege a prosecutorial function as stated in *Buckley*, judge Pryor was presumed to know this as she is "[P]resumed to know the law and to apply it in making [his] decisions." *Provenzano v. Singletary, 3 F. Supp. 2d 1353 (M.D. Fla. 1997)*. Judge Pryor's failure to act in accordance with the "law of the case rule" is what prompted Arnold to file a motion to disqualify Jill Pryor contenting facts showed the actual or reasonable appearances that Pryor's denial of Arnold's IFP motion was done to deliberately obstruct and impede Justice when weighed against judge Pryor's experience and presumptions to know the law & what the law required on the one hand, against her acts contrary to the law and how it operated to obstruct Justice or further a scheme on the other – to weaponize Arnold's

poverty by conditioning his right to proceed on appeal on his payment of a filing fee that judge Luck knew or had reason to know Arnold could not afford evidenced by his paupers affidavit. [USCA11 Arnold v Patterson, 24-11420, Doc. 12-13]. Arnold contends that one may infer that judge Pryor's impartiality can reasonably be questioned because the facts show that judge Pryor's decision was so far departed from the law, her presumptions and experience as a judge to know the law and how to apply it, that it evidences her intent to do wrong – an evil mind. An "[E]vil mind can be proven either by direct evidence or by evidence that his conduct was so oppressive, outrageous, or intolerable such that an evil mind can be inferred." *Walter v Simmons, 169 Ariz. 229 (Ariz. Ct. App. 1991)*.

(ii) Facts Reasonably support motives that Judge Pryor departed from the law, his experience and this court's dominant instruction.

Arnold further asserts cognizance of Pryor's intent to deny his IFP motion may also be inferred based on what the denial operated to do. The denial of Arnold's IFP motion *has* caused a delayed review of the merits of the district court order dismissing his complaint because, "[A]n action must be reviewed to determine frivolity before addressing the merits of the claim." *Brown v. Dept of Corrs, No 1155 C.D. 2016 (Pa. Commw. Ct Aug 8 2017)*. "[I]ntent ordinarily may not be proved directly, because there is no way of fathoming or scrutinizing the operations of the human mind. But you may infer from the [facts and] circumstances surrounding." *United States v Kozminki, 487 U.S. 931 (1988)* Arnold argues that the only plausible reason a judge would depart from their experience as a judicial officer and disregard the facts of the case, the law of the case rule and the law itself *is* to gain some sort of an advantage. Arnold asserts that facts reasonably support that these advantages were to delay a review of the merits of the district court order dismissing Arnold's complaint for lack of jurisdiction because denying Arnold's IFP motion would precisely delay such review. There is absolutely no plausible excuse as to why a Federal

judge would dismiss an entire lawsuit for lack of standing under *Linda R.S.*, – a case standing for the proposition that a citizen has no right to the prosecution or nonprosecution of another – when no prosecutorial function exists in such suit if not but for an evil mind. Thus, Arnold contends that judge Pryor was obliged to disqualify under *Liteky* because her judicial order evidences partiality, bias, prejudice and/or antagonism as to make any fair judgment impossible.

## VI. THE CIRCUIT COURT ERRED IN CONCLUDING THAT ARNOLD'S CONSTITUTIONAL CHALLENGE TO 11TH CIRCUIT RULE 31-1 WAS MERITLESS.

Arnold alleged verbatim in a motion to expedite a ruling on his IFP motion that, to wit:

"11th Circuit Rule 31-1 discriminates against pauper filers on the basis of poverty absent the least restrictive means because Appellant & pauper filers are burdened and delayed review of a district court's order and the benefit of briefing "in this court" until this court rules on an IFP Motion following a denial of IFP status by the district court unlike paid filers who get immediate review of district court orders and the benefit of briefing." USCA11 24-10634, Arnold v Chronister et al., Doc. 15. Par. 9]

Arnold alleged in his motion that 11th Cir. R. 31-1 "[V]iolate the Appellant's fundamental first Amendment interests on appeal to seek vindication for violation of his rights without burden or delayed justice. See Bill Johnson's Restaurants. Inc. v. NLRB. 461 US 731 (1983) ("The First Amendment interests involved in private litigation – compensation for violated rights and interests, the psychological benefits of vindication [and] public airing of disputed facts.")." [Id. Doc. 15. Par. 22] Arnold also alleged that "[I]t is well established that a fair trial is a fundamental constitutional right for parties in… civil cases." *Desclos v. Southern New Hampshire Medical Center, 153 N.H. 607 (N.H. 2006);* "[T]here can be no… justice where the kind of trial [Arnold] gets depend on the amount of money he has." *Griffin v. Illinois, 351 US 12 – Supreme Court (1955).*" [Id. Doc. 15. Par. 23]. Arnold challenged 11th Cir. R. 31-1 as applied and facially contending that the type of trial and justice pauper filers receive pursuant to 11th Cir. R. 31-1 are months long deprivations of the *benefit of briefing* solely because of the amount of money they

have which burdened fundamental First Amendment interests and fundamental rights to a fair trial absent the least restrictive means. [Id. Doc. 15. Par. 22] Arnold alleged that there were least restrictive ways to achieve the courts interest by ensuring that pauper filers are allowed briefing and that a frivolity determination is made at the time of reviewing such briefs. [Id. Par. 25]

Arnold alleges that 11th Cir. R. 31-1 is unconstitutional, and the circuit court erred in concluding otherwise. (App. C) This court stated that "[I]t is undesirable for us to decide a matter of this importance in a case in which we do not have the benefit of briefing by the parties." *National Aero. and Space Admin v. Nelson, 562 US 134, 131 S.Ct 746 (2011)*. Although it has been stated that "[A] litigant whose filing fees and court costs are assumed by the public, unlike a paying litigant, lacks an economic incentive to refrain from filing frivolous... lawsuits," [*Neitzke v. Williams, 490 US 319 – Supreme Court (1989)*], Arnold alleges that the lack of benefit of briefing creates situations where any "[P]leading defects may not only be latent, [but] easily missed or misperceived without full briefing." *Loreley Financing no. 3 v. Wells Fargo Securities, 797 F. 3d 160 Court of Appeals – 2nd Circuit (2015)*. This is especially so when the district court has determined that a complaint is frivolous. Any pleading defects which could be misperceived, and in which leads to a genuine belief that a civil complaint is frivolous due to the absence of the benefit of briefing in the circuit courts **would only exist** because of a litigant's economic status. It is without dispute that it would not exist if an individual had the ability to pay the filing fee and thus, receive the immediate benefit of briefing. It is true that pauper's filers "[C]omplaint[s] [are] subject to prefiling judicial scrutiny to ascertain whether it is so lacking a justiciable issue that its filing should be denied." *In Re Lawsuits of Carter, 510 SE 2d 91 – Ga: Court of Appeals (1998)*. However, this interest "[M]ust be viewed in the light of less drastic means for achieving the same basic purpose." *Griswold v. Connecticut, 381 US 479 – Supreme Court (1965)*. This is

only so because a fair trial and the First Amendment interests involved in private litigation – compensation for violated rights and interests [and] the psychological benefits of vindication [and] public airing of disputed facts – are fundamental interests, as they are "[I]mplicit in the concept of ordered liberty, "such that neither liberty nor justice would exist if they were sacrificed." *Washington v. Glucksberg, 521 U.S. 702 (1997)*.

Arnold's IFP motion was filed on 4/15/2024 and a ruling was not entered until ninety-three (93) days after Arnold filed his IFP motion. It is plausible to state that during such time, the circuit could could have allowed briefing as early as 3/15/2024 – when the district court initially denied Arnold's IFP motion – and entered a ruling around the same time frame it eventually did. Such briefing in any case could in fact mitigate any burdens that could exist due to the lack of briefing. Furthermore, it would also assist the court in making a "frivolity determination" in lieu of only burdening the court with additional filings as those filings would only be relevant to its frivolity determination in lieu of the review of matters that are restricted until that determination is concluded. In Arnold's case, what could occur simply did not *because* of his economic status although if briefing *was* allowed, it would be a less restrictive measure on Arnold's rights. As such, because 11th Cir. R. 31-1 violates the rights of paupers filers by depriving them of the benefit of briefing until their paupers motions are ruled upon, absent the least restrictive means, Arnold's claims in fact have merit and 11th Cir. R. 31-1 should be stricken as unconstitutional.

## CONCLUSION

For all the reasons stated above, the Petitioner respectfully requests that this Honorable Court to GRANT the Petitioner's Writ of Certiorari.

Date: 10/15/2024

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