7/15/24

No. 24-59

IN THE SUPREME COURT OF THE UNITED STATES

STEPHEN LYNCH MURRAY, Petitioner

v.

PHIL ARCHER, CHRIS SPROWLS, OKEECHOBEE SHERIFF, PINELLAS SHERIFF, RON DESANTIS, , Respondents

On Petition for a Writ of Certiorari to the 11th Circuit

PETITION FOR A WRIT OF CERTIORARI

When there is speech infringement with arrest, must there be a venue for confrontation and evidence the state did not provide as due, before a federal court can rule on fact?

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QUESTIONS PRESENTED

When there is speech infringement with arrest, must there be a venue for confrontation and evidence the state did not provide as due, before a federal court can rule on fact?

When there is any stated opportunity to file an amended complaint no matter how futile or misconceived, does this give a court of appeal discretion to not review the actual issues appealed, which are that the district dismissed all the plaintiff's claims with prejudice and intended to?

Can a state penalize political speech based on an imagined crime witnessed by nobody, where a federal court accepts facts provided by nobody contrary to the sworn statements of the political speaker as firsthand witness?

The Constitution did not seek to answer the question "What are our natural rights?", assuming the process to protect them is not a big problem. It sought to answer the question "What institutions and processes are necessary to impede violations of our rights by a king or the majority?"

History can be examined to clarify what natural

rights are, why processes are needed, and what historical processes were used. But history cannot be used to abridge the process protections created by the Constitution and law, such as the right to confront witnesses and a jury trial, or to reduce process protections below those necessary to serve the generally applicable principles. Particularly in areas most vulnerable to corruption of the process, guns and political speech.

The mayor can say whether you are guilty of a traffic ticket (even that is corrupted by money), but not whether you committed a murder or whether an arrest legalized broad violations of your speech rights. Stating what your rights are, or what the historical process protections were, is insufficient to fulfill the increased process protections in United States law.

A diluted state process protection against false arrest is not the same as a state process protection against the state using color of valid arrests to attack political speech. The exact opposite is true. It is because state Fourth Amendment protections are weak compared to a jury trial, that states can exploit this weakness to attack speech. A state cannot convict you in front of a jury either that you did something you didn't do, or of what you actually did if that was speaking. But they can arrest you for it or just beat you in the street with a superficial appearance of legality.

Federal courts were given a mandate to supplement

state Fourth Amendment protections, not to rely on them or outsource to them. "Under color of statute" can be translated as "superficially legal if only subjected to a local judge scrutinizing a cop's lies and actions". 42 USC 1983 is not so you can tell a federal court "a cop said he is breaking the law to arrest me", or "the state violated my speech rights without even the superficial appearance of Fourth Amendment process". It is so you can tell a federal court "a cop colored an arrest as if he was following the law (which is enough to satisfy the state's Fourth Amendment process), which is why I need more protection for my speech than the local Fourth Amendment process, such as discovery and confronting witnesses and a jury to examine what actually happened".

The Court's present doctrine for creating process to protect against state speech attacks, actually increases the state's power to use false arrests to attack political speech under color of statute. Because it allows the generous treatment by courts of subjective facts and lies at the moment of arrest, to also be used to excuse multiple events outside the moment of arrest, without discovery or confronting witnesses. The Court's doctrine says we can depend on the state's Fourth Amendment process not just to shield you from false arrest, but to shield you from broad attacks on political speech using only the remarkably uncritical treatment of a cop's justification for arresting you, and also to produce a record of enough information to enable federal court oversight.

State actors can presently game the Court's speech-retaliation doctrine, by using an arrest that is never charged, much less documented with witness or discovery, to graft a probable-cause event onto a larger pattern of extra-judicial attacks, and obtain dismissal of all claims by a district court (as being somehow connected to the arrest whether by Younger abstention, or just because the State says so and a district has discretion to dismiss everything because a judge at some point signed a warrant). So a cop can beat you for posting fliers, then arrest you seven months later for "reckless driving", and a district will say "this is common-law false arrest" and call it discretion on fact as to whether the two events are really connected, rather than error of law allowing a district judge to dismiss all claims without witness or discovery because a state judge signed a warrant.

Another state actor can lie to the cop, creating probable cause at the cop's vantage point, just like a lying cop creates probable cause at a court's vantage point. So that it is opaque who the defendant is, prior to discovery. This Court's doctrine is easily blinded, by such obfuscated misdirection. (The Court seems to start from the collectivist assumption that everyone knows the same things and wants the same things, blind to the problem of different people at different vantage points having different agendas and information; rather assuming a state judge knows and does the same things as a federal district (and maybe everyone witnesses every email to anyone).)

Arrest affidavits are worse than split-second, because the person arrested does not witness the same things the cop witnessed. It gives the district discretion to say "you have no idea why this cop arrested you, anything you say is conclusory". But a state judge never examines what is really true, a plaintiff in federal court does. A person who never met the cop before, needs discovery to confront what the cop claims he knew.

By never charging you and staying silent, state actors can keep facts limited to what they were subjectively at the moment of arrest without adversary - lies and all - and they can convert an original federal complaint into a pointless appeal, again on the same factual color the state used. The plaintiff's sworn statements weren't considered by the state judge who signed the warrant and the cop's statements weren't confronted or supported with documentation. The probable-cause ticket past this Court's speech doctrine can therefore be interpreted by a district court, to not even have to read the plaintiff's sworn statements or examine whether the cop told the truth. So that the standard of accepting the non-moving plaintiff's statements as true when considering defendants' motion to dismiss prior to answer or discovery, is reinterpreted as "accept the cop's report as true, and if that remotely creates discretion to say there was probable cause, dismiss".

QUESTION: Is there a minimum level of process - discovery, witness, examination - prerequisite to

district courts examining fact to apply this Court's standard for determining whether speech infringements were the result of probable cause? When there is speech infringement with arrest, must there be a venue for confrontation and evidence the state did not provide as due, before a federal court can rule on fact?

Particularly with an affidavit-warrant where the cop claims things the plaintiff has never seen and which have never been documented, which district courts therefore will not let the plaintiff dispute as witness. Does the plaintiff have a right to discovery and to confront those statements, such as to prove another state actor lied to the cop, before dismissal based on probable cause?

Sub-Question 1: Can district courts apply the Nieves standard in any case where the plaintiff was ever arrested, to ignore all statements by the plaintiff and all non-arrest events, and only consider the statements of the cop who said there was probable cause, which is all the state court had to consider at the time? Or if the plaintiff disputes facts which a state court did not visit with a hearing and discovery, does a district court have to provide an original venue for discovery and confrontation, to get a fact-set to apply the standard to? Is there a process necessity for district courts to use a Mt. Healthy-type standard when there is an attack on speech, there is an arrest but no state court record or following process (no discovery or witness confrontation), and the plaintiff swears police lied (either to support the

arrest or to connect it to other events), which advances the burden to police to respond that they didn't lie (or to support what they did not yet support in the state court record)? Is it an error of law to allow discretion on fact before relevant discovery?

(In other words, not an appeal but a first impression in a federal court. The counter-argument is that a federal court cannot or doesn't have to force police to provide discovery or testimony, or even listen to the sworn statements of the plaintiff, if a local court said what police did is okay.)

Sub-Question 2: When there is any stated opportunity to file an amended complaint no matter how futile or misconceived, does this give a court of appeal discretion to not review the actual issues appealed, which are that the district dismissed all the plaintiff's claims with prejudice and intended to? Just because the district allowed that it might have missed something in its dismissals with prejudice, for not listening to a thing the plaintiff said or even being obligated to read the complaint?

Sub-Question 3: Can a district court find prejudice without facts or authorities, upon a complaint which it argues it is not even obligated to read? Or does a court have to cite some specific facts of the case and measure them against authorities to dismiss with prejudice, and cannot find prejudice generally against yet-unspecified claims arising from unclearly defined events (e.g. events known only to have involved uncertain people or to have happened

around a certain date), or generally against claims involving certain people, without specificity as to what facts and claims are barred for what legal reason? And especially not with the excuse that a shotgun pleading leaves it impossible for the court to even know what it is dismissing with prejudice?

Sub-Question 4: Can a state penalize political speech based on an imagined crime witnessed by nobody, where a federal court accepts facts provided by nobody contrary to the sworn statements of the political speaker as firsthand witness? Can a federal magistrate add new unwitnessed color either from defendants or its own imagination, rather than critically examining the state's color? Can a federal court imagine what might have happened without witness or hearing, which is the sort of preliminary suspicion-level judgment a state judge makes when signing a warrant?

Sub-Question 5: Does the process for federal courts protecting First Amendment rights against retaliation, depend on state actors handing examination of what they did over to this Court on a silver platter? Is the standard for dismissal indifferent to the level of discovery and examination already provided by the state? Or can state actors defeat the preponderance and Mt. Healthy burdens by just lying, or beating people who post anti-cop fliers in the street without any police report or documentation? If one cop tells one lie or there is some other obfuscation or stonewalling discovery, does the same activity sail through every court?

Never mind the fact templates, can the Court's whole doctrine be defeated by using executive-branch immunity instead of hearing and law, by just lying or not providing discovery (to create the color of probable cause and connect it to multiple events)?

Sub-Question 6: Is it just the job of this Court to say what the law is e.g. speech cannot be illegal and stealing documents can be, without regard to the process for who decides when the law has been violated? Or is it also the job of this Court to enforce that there is a process amenable to judicial regulation of violative actions, such as by saying who decides and with what process features such as discovery, and particularly in rights where the process is most vulnerable to corruption? Is due process for production of fact a prerequisite to jurisdiction on law? Or can state actors evade regulation by just not producing fact and instead a federal court conducts a bench trial of gossip and insinuations? Is a plaintiff saying "police lied" not a magic wand to get past any early dismissal, but something that must at least be given consideration to advance the process, in the case when state actors do not defend their activities by creating a record of discovery in state court?

PARTIES TO THE PROCEEDING

Petitioner is Stephen Lynch Murray, a private citizen in the state of Florida at the current time and at the time of all relevant events.

Respondents are:

Phil Archer, a natural person who is also the elected State Attorney for Florida's 18th Judicial Circuit

Chris Sprowls, a natural person who used to be Speaker of the Florida House of Representatives

Okeechobee County Sheriff's Office, the term in Florida for the official capacity of the constitutional officer

Pinellas County Sheriff's Office, the term in Florida for the official capacity of the constitutional officer

Ron DeSantis, a natural person who is also the Governor of Florida

STATEMENT OF RELATED PROCEEDINGS

This case arises from the following proceedings:

Stephen Lynch Murray v. Phil Archer, et al
22-13155 11th Circuit
June 17, 2024 - Rehearing denied of dismissals with prejudice actually appealed.
October 2, 2023 - Shotgun dismissal with leave to amend reviewed and affirmed.

Stephen Lynch Murray vs. Phil Archer, et al
Civil Action No. 2:21-cv-14355-JEM, U.S. District Court for the Southern District of Florida
September 1, 2022 - Prejudice order with Motion for leave to amend denied. Dismissed with Prejudice in part, with hypothetical leave to amend, in part.

State of Florida vs. Stephen Lynch Murray
No. 21-00796-CF, In The Circuit Court of the Sixth Judicial Circuit of the State Of Florida in and for Pinellas County.
June 22, 2021 – No Information entered.
January 25, 2021 – Arrest warrant entered.

The 11th Circuit did not appear to review the prejudice dismissals actually appealed, and Petitioner requests certiorari on that also.

There are no other proceedings in state or federal trial or appellate courts, or in this Court, related to this case under Supreme Court Rule 14.1(b)(iii).

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The issue for certiorari is concise, though the results may be far-reaching like any process right, which puts the necessity of facts and law between executive action and rights.

This Court's speech doctrine can be interpreted by district courts, as accepting a past state Fourth Amendment process in lieu of an original federal process, thus foreclosing due process such as discovery, testimony of plaintiff and defendants, and examining multiple events in a jury trial.

The issue is whether district courts can point to present case law, to abdicate their jurisdiction and mandate to introduce new facts and process as necessary to supplement a state finding of probable cause, before ruling on fact whether the state process was abused to attack speech.

New Federalists have some prejudice that state fact-finding and immunity are virtuous. Letting elected officials do whatever they want to nobodies is politically popular. So that federal courts are supposed to examine the state court record only applying federal law to it, which is easily subverted by the state not creating much record or lying.

State actors can game the template of this Court's First Amendment doctrine and defeat the preponderance and Mt. Healthy burdens with a three-step formula:

i) attack speech all over the street, but never go before a judge or create a court record,

ii) sloppily graft an awkward probable cause event onto the story to move the burden from a wide, time-consuming preponderance of evidence to narrow and subjective probable cause (which can even be fixed by state actors lying to each other upstream of the cop or court),

iii) never charge the person arrested, so that the state does not have to back it up with any discovery, which would be necessary to facilitate examination of either probable cause or the preponderance of larger circumstances, and whether the two were really connected.

Petitioner's speech was brazenly attacked such as by police at a gas station, who said they would imprison or injure Petitioner without going before a judge, unless he agreed to not report crimes to the Florida Inspector General. The District applied - or misapplied - the Court's doctrine to say this didn't happen. This because Petitioner was arrested seven months earlier, long since abandoned without charge or discovery, not even a police report or witness statement.

The state refusing to provide any witness or discovery supporting probable cause was not seen as an original venue problem to be solved by the District. Rather, the District invented color the state

did not even provide, to fill in for lack of process.

Petitioner respectfully petitions for a writ of certiorari to the 11th Circuit Court of Appeal, for using this Court's doctrine to deny the due process created by the Constitution and 42 USC 1983, which supplements and provides check and oversight on state Fourth Amendment processes.

DECISIONS BELOW

Denial of rehearing by the 11th Circuit is reproduced in Appendix A page 1a

Opinion of the 11th Circuit is reproduced in Appendix B page 3a.

Petitioners appeal opening brief is reproduced in Appendix C page 10a.

Florida Southern District Order is reproduced in Appendix D page 80a.

JURISDICTION

The 11th Circuit's Order was 10/2/23 Appendix 3a, and denied rehearing on 6/17/24 Appendix 1a. The Court has jurisdiction under 28 USC 1254(1).

CONSTITUTIONAL & STATUTORY PROVISIONS

42 USC 1983 creates federal venue, when a citizen is subjected to deprivation of any federal right "under color of any statute".

STATEMENT OF FACTS

A. Political Speech

Petitioner swore notarized and filed in a federal court, that he firsthand witnessed police tampering evidence to convict a hooker of murdering her pimp, in Seminole County where Defendant Archer is State Attorney. Evidence is the pimp slipped codeine into her cocaine to keep her from going home to her boyfriend, and she remembers very little. (The elected judge barred that evidence, and instead used jailhouse confession witnesses to tell what happened.)

Actual evidence is the hooker's boyfriend knocked on the pimp's door after mistaking him for your Petitioner, and the pimp accidentally fell off a balcony while trying to hide his many crimes. Petitioner documented the evidence tampering on a website "SeminoleScam.com", including more than 10 witnesses committing more than 50 instances of material perjury.

Petitioner was harassed by Seminole County police, and began to see evidence he was tracked and

followed. The State did not volunteer any record of this or mention it in any arrest affidavit. The closest they got was asserting their right to do so in response to motions for injunction, because federal courts cannot interfere with state investigations. (They also allowed that Archer got a secret warrant to search Petitioner's email account, which had 523 emails containing Archer's name.)

When petitioner learned state witnesses lying is not prosecuted, but supported as a standard process to move decisions to the executive branch and will of the people, he sent thousands of emails to elected officials, and created a website "Cops2Prison.org". 100% of Petitioner's emails and other activities had the purpose and effect of political grievance. No email has ever been presented in any court.

Police misconduct and "Black Lives Matter" were major issues around the 2020 election. Also at this time, Joel Greenberg and Ghislaine Maxwell were being federally prosecuted for pimping crimes committed in Florida but condoned by local politics. Petitioner characterized the discretion of Florida prosecutors like Archer to not prosecute either VIP sex crimes or perjury, as sort of sundown-town evading federal law to pander to the impulses of "the people".

Petitioner sent multiple emails to Archer's offices. This included emailing Archer's apparent campaign email address, that his slimy practices were not 100% supported by white voters as imagined, and

would cost Republicans the 2020 election. Petitioner emailed Archer a screen grab of the IP address of the US Congress, in a log visiting pages where Petitioner documented Archer's crimes.

Petitioner also sent Archer a reply to Petitioner's email about Archer, from an elected representative. Petitioner emailed every Republican prosecutor running for office in Florida that Archer was a slimeball who was ruining their reputation. Petitioner searched for a way to tell what party judges were in, since Petitioner is a Republican.

Petitioner saw a news story saying his state House Speaker was a former prosecutor, including a tweet the Speaker made about a dead prosecutor. Petitioner clicked on the tweet, and later searched "Sprowls" on Twitter because there were discussions about prosecution in Florida. Petitioner added his opinion that while the dead prosecutor was alive, the profession became a cesspool of fake evidence, coerced witnesses, and perjury.

Petitioner portrayed his Gulf coast elected representatives (state and federal) as Nazis on social media. When they posted Christian memes and bible quotes around Christmas, Petitioner found a list of bible quotes on hubris, and replied to Twitter posts with a picture of Trump and quotes about the fatal flaw of pride. This included a picture that Twitter kept showing, of the wife of the Florida House Speaker sitting next to Trump on Air Force One.

When Republicans lost the election, fossils from the 1990's could not believe white people exist who don't like lying cops, and instead imagined such votes were fraud. When Trump's mob raided the Capitol on January 6th, Petitioner sent Archer an email comparing them to bikers in a movie who were defeated not by black Marxists, but by white FBI-looking city types in suits. Petitioner added his own caption "White voters to Trump: Look at me, I did this to you."

Petitioner saw the wife of the Florida House Speaker was advocating for Trump to overturn the election on Twitter, showing her picture with Trump on Air Force One. Petitioner sent Archer a sarcastic and derogatory private email which included the picture of Trump on Air Force One, saying something like "Is pimping legal in Florida? I am going to make this bitch my whore." No testimony has ever been presented that anyone but a cop ever read this email. Petitioner never sent any email mentioning the name of the supposed crime victim, and certainly never sent any email to her. There was one picture with Trump in one email, this victim is never alleged to have read any of Petitioner's emails.

Petitioner posted videos on Youtube about the Crosley Green case. One of those argued it was hard for police to find the scene, by using a video of how hard it is to find Petitioner's property on a similar unmarked dirt road. Police used that video to locate Petitioner's property in a gated community, trespass on it, and run Petitioner's license plate.

Petitioner posted a video telling police to stay off his property, unless they get one of their sundown-town warrants with some real good lies. Police saw this video (the views lined up with hits on videos embedded in Petitioner's website, from Pinellas County Government). The next day while Petitioner was two counties away picking up his dog from surgery (with his phone turned off), deputies trespassed on Petitioner's property in a military formation, with fingers on triggers including a military rifle.

Not many days after that, four Okeechobee sheriff vehicles trespassed again on Petitioner's property. Then they pulled Petitioner over and said there was no traffic violation, rather they were sent to warn Petitioner not to send emails to Washington. Petitioner recorded this and provided a transcript to the District. They later represented to the District that this was all part of an investigation, but they did not ask Petitioner a single question.

A few weeks later, Petitioner was trying to hire someone to post "Cops2Prison.org" fliers at the University of Florida. When that didn't happen instantly, Petitioner decided he would post some himself to gain experience. Petitioner found the closest law school on the map, and the only one he thought his old car could get to, Stetson University.

Petitioner thought Stetson was in Tampa. Petitioner had no idea he was driving through the county of the

crazy nazis who had been harassing him, where Defendant Sprowls was once a prosecutor and DeSantis grew up. Petitioner drove over the largest bridge in Florida, posted "Cops2Prison.org" fliers at a law school never alleged to be near any crime victim, and left in 94 minutes.

It was late Sunday and there was no foot traffic at the college, so Petitioner got no visits on his website. Right when Petitioner was leaving, he saw the Stetson security guard take down a flier, and visit "Cops2Prison,org" on his phone. This was followed soon after by another hit from Pinellas County, and another, creating the impression the security guard forwarded the link to people not at the college. Immediately after that, a Pinellas deputy wrote an arrest affidavit for Petitioner.

The arrest affidavit contrived a connection between four different events, a) Petitioner posting bible quotes about hubris on Twitter, b) Petitioner emailing Archer's address comparing the January 6th mob to bikers, c) Petitioner emailing Archer the picture of Trump on Air Force One with the word "whore", and d) 18 days later, Petitioner driving through Pinellas County to post "Cops2Prison.org" fliers. The only person who managed to find all four of these events (among thousands) was the cop who stalked Petitioner. You would need a chalkboard to explain to the supposed crime victim how she was being harassed.

Rather than the victim witnessing the crime as

required by statute, the cop colored in the arrest affidavit that Petitioner driving over the largest bridge in Florida caused third parties to become concerned on her behalf. This arrest affidavit was written immediately after a security guard took down Petitioner's "Cops2Prison.org" flier, and after Petitioner had left the county, never alleged to be anywhere near much less known to any crime victim, whose location was not included in the suggestive but nebulous arrest affidavit.

B. Arrest

The next morning, Okeechobee deputies came to Petitioner's property and arrested him, but did not know what the crime was. Pinellas deputies drove to Okeechobee to get Petitioner's electronic devices and conduct an interview. At no point did anyone ask what Petitioner did in Pinellas for 94 minutes. Rather they asked "Cops2Prison.org, that is your website, isn't it? Cops2Prison, that is your Twitter handle?" The deputy committed perjury in the affidavit, claiming Twitter already said it was.

Pinellas County refused to produce the arrest affidavit for 10 days, apparently over stress about multiple such lies, and also because the deputy sent out false bond conditions never signed by a judge to force Petitioner to take down his social media. They then kept Petitioner on bond for five months without charge or discovery, not even a witness or police report, against the Florida Rules of Criminal Procedure.

During that time Petitioner filed a motion demanding the State produce discovery, wrote the prosecutor an email demanding to be charged and deliver the discovery, finally tried a public records request to get a police report of the crime, and got nothing. They still refuse to provide Petitioner's in-custody interview, or documents which the deputy lied in the affidavit exist but don't.

The arrest affidavit was evasive and vague, using statements like "your affiant located an email", without mentioning the deputy located the email in the contact section of the"Cops2Prison.org" website. The deputy could not have known Petitioner was in Pinellas without knowing Petitioner was posting "Cops2Prison.org" fliers, since if they were already tracking Petitioner's car or phone, they would have arrested Petitioner on his way out. But the deputy did not mention the fliers.

The deputy rather mentioned a lot of stuff that could not have come from either a crime victim or search warrants as claimed, such as Petitioner's birth date and having a girlfriend, and perjury about how he got Petitioner's phone number. This information could only have come from Seminole County and Defendant Archer, and Petitioner has evidence it did. The narrative in the affidavit is complete without any participation by the crime victim, but only prosecutors and cops who did not like Petitioner's speech, and jumped at a chance to lie about Petitioner when he drove through their county.

C. Proceedings

Seven months later on a Sunday night, long after they abandoned the arrest without a charge or witness, Petitioner filed a whistleblower complaint on the Florida Inspector General website, complaining about perjury in Petitioner's arrest and in the dead-pimp case. Petitioner's "SeminoleScam.com" website immediately got hits from a cellphone in Tallahassee, by someone who knew where to find the page mentioning Petitioner's previous whistleblower complaint about prostitution.

The next morning Petitioner was located and detained at a remote gas station (by tracking his phone?), and warned by at least six Okeechobee deputies in at least five vehicles for 40 minutes, that Defendant DeSantis told them to threaten Petitioner to not send complaints to the Florida Inspector General. Or else they said Petitioner would be locked up without going before a judge, and worse.

Finding their threats credible, Petitioner filed a hurried Complaint at the Florida Southern District, asking for injunctive relief. Defendants claimed 11th-Amendment-prosecutorial-legislative-immunity, and straight lied to the District. The Pinellas sheriff did not even have the gall to present his own perjuring affidavit to a federal court, but the other defendants did in motions to dismiss, and lied about it.

The District discarded Petitioner's sworn statements

as firsthand witness, to instead imagine facts based on unwitnessed gossip and falsehoods from defendants. The District generally dismissed all Petitioner's possible claims with prejudice, without comparing any accepted set of facts to authorities, only allowing the prejudice might have missed something for not even being obligated to read Petitioner's Complaint. This Court's doctrine used the mere presence of an arrest, to erase a 42 USC 1983 cause of action from a federal court without using a single real fact.

The District dismissed claims with prejudice for events both A) before the entire narrative in the arrest affidavit, including trespassing and detaining for no legal purpose and not regulated in any court but mentioning political speech, and B) long after the arrest was abandoned, such as being ordered detained and threatened by Defendant DeSantis for reporting perjury. Petitioner asked the District in a motion for leave, to break up the claims into multiple complaints and replead prior to dismissal. Because all these events were apparently too much to read through in a single complaint, and because the detention at a gas station could not be justified by the abandoned arrest affidavit. The District denied the motion, saying "Plaintiff cannot escape dismissal with prejudice of his futile claims" (App. D 83a).

On appeal, defendants abandoned prosecutorial immunity and the statute given for the arrest, suggesting only that Petitioner had threatened someone. There is no witness of any threat and

therefore none to confront. Rather, federal courts accepting unwitnessed gossip from the Florida Attorney General seems to be the standard, to make social judgments without even applying law. But the 11th Circuit somehow did not even get that far, and said only Petitioner's Complaint was a shotgun pleading which he was given leave to amend, and chose not to.

Courts basically said "We can ignore you and not read a thing you said, because there is an arrest warrant". They know every appeal and rehearing will apply this Court's doctrine to allow such discretion. It is an error of law needing guidance, whether such a complaint is merely an appeal of probable cause with discretion on the same facts without adversary, meaning did the deputy create the vague appearance of probable cause at the time for one of the events? Or does 42 USC 1983 create an original action requiring due process for a first impression on fact, such as did the deputy lie and can discovery and examination prove the probable cause was merely "color"?

ARGUMENTS FOR GRANTING THE PETITION

I. Gaming a Narrow Template for Dismissal (the 42 USC 1983 process can be nullified by reducing it to a Fourth Amendment process)

Arrests usually cannot be extended into larger deprivations without due process. But the Court's doctrine tells district courts to do exactly that, by

denying venue for speech-retaliation claims of people who were arrested. Justice Thomas suggested he had a problem with a preliminary oath-affidavit process for federal gun rights in Rahimi. But someone who is accused by a cop rather than a girlfriend, can have his speech rights infringed without ever being heard in court. Whom will local politics protect from perjury charges, a cop or a girlfriend?

Attackers of political speech can use the generous treatment given to arrests, combined with a total lack of discovery resulting from no charge, to game the speech doctrine by awkwardly grafting an arrest onto the events, with no burden of even producing a witness of a crime or discovery. So that the path through this Court's doctrine is an arrest which is given the benefit of the doubt, without any supporting documentation that can be used by a civil plaintiff. If you attack a political speaker, just arrest him using lies, don't charge him, and use the lack of a charge to insulate the lies and protect the probable cause to defeat the Mt. Healthy or preponderance burden.

Some Justices would have a problem if New York cops cited Trump for DUI on his way to a campaign rally, because an unnamed witness said he was driving erratically. And then used that to justify pulling him over again on the way to another rally. Justice Thomas would never consider that Trump was never charged and therefore never had a venue to get his blood test results and prove the cop lied, much less proceed to the point of considering that

there was a campaign rally. Whereas if Trump was not cited for any crime, Justice Thomas would go crazy over police stopping Trump on the way to a campaign rally. Justice Thomas therefore rewards police for lying to create color and penalizes them when they don't.

As if a "Living Constitution" can repeal the Ku Klux Klan Act, because police have become more professional than those dark times, so that federal courts only decide what the law is, and no federal process is necessary. Lying that a speaker punched someone (without ever having to produce a witness), is a lower burden for police than arguing why the speaker's actual activity (such sitting in the front of a bus) justified the larger actions of police. Of course it looks on its face like a legal arrest for something else. 42 USC 1983 says "under color of any statute", not "openly admitting to breaking a statute".

Arrest affidavits are worse than split-second arrests where a driver might have his own video, because events leading up to the arrest are conducted out of view. It gives the cop freedom to invent a nonsense story about what he knew. The cop can just say "I heard he was selling drugs, so I arrested him when he drove into the county."

A district can dismiss non-cop defendants for only looking at the moment of arrest. If unnamed ("conclusory") state actors lied to the cop, there is no venue to discover that and bring in the real defendants, and no way for a plaintiff to defend

himself against cops being lied to.

Archer lying to deputies about Petitioner, or deputies lying to DeSantis about their own perjury, contrives subjective probable cause at some unknown vantage point prior to the court. Probability being a function of vantage point means anyone upstream can lie to a court, and under the Court's current doctrine the plaintiff is irrelevant and there is no opportunity to confront and examine.

This Court has considered that people cannot immunize drunk driving by putting a political sign on the car. But nor can state actors immunize speech attacks by lying in the wild west of probable cause, to put a probable-cause label on the attack, which moves the retaliation into criminal law. This "one weird trick" summons the entire cop cult to support an attack on speech when it is between protecting speech and supporting a cop, turning the speaker's activity into "The War on Cops". Nobody cares if you sue the property appraiser. But if you say a cop lied, cult judges on the far side of the country will jump in front of you.

Justice Thomas cannot equate a First Amendment retaliation claim to common-law false arrest, just because there was an "arrest". 42 USC 1983 differentiates state Fourth Amendment and federal First Amendment venue and process. But district courts won't listen to your speech claim until you somehow create a record in state court, perhaps by suing for public records or false arrest to get a venue.

A speaker who is not charged, does not have a venue to prove cops broke the statute. The federal court is supposed to give you that venue. But a federal court applies the wrong standard, treating the plaintiff as still defendant to ask was there color of probable cause, rather than can the plaintiff reach the discovery and confrontation stage to look for the first time at proving there was not (particularly with affidavits/warrants).

Plaintiff thought never being charged would raise suspicion in federal courts, but the opposite is true. This is ignored by the doctrine. The doctrine is just applied to less facts, without considering it is deprived of process to determine fact. The cop's (undocumented, un-confronted) statements sworn in state court are accepted as true. Police arresting you without charging you is given an advantage, rather than looking more suspect and inviting examination of the larger circumstances. It lets police lie about you to deprive you of speech, without ever being confronted in a hearing.

So that cops whose intention is never to charge a crime but to chill speech, can chill speech broadly without due process based on local probable cause alone, because the arrest not the resulting charge (or using the arrest to impose speech restrictions or search for evidence of unrelated crimes), is the punishment. If you can't prove it was a false arrest because police don't document what happened by charging you, it creates a two-stage process where

you have to prove an arrest was unsupported, before you can introduce the "preponderance" of facts about speech violations in federal court and how the arrest was connected to them. The Court's speech doctrine does not provide such a venue and lets police pull a fast one.

Petitioner was detained and his speech threatened in the street more than once, his property trespassed in military formation without warrant after being told to stay off, and he was kept off social media for five months using bond conditions never signed by a judge. Police implied those other attacks on Petitioner's unrelated speech were justified by the circumstances of the arrest (without discovery or examination of those circumstances), but that those other instances of speech were not the cause of the arrest. The District then accepted on its face without any supporting documentation or any witness to confront (without Petitioner's own sworn statements being considered), that the arrest was supported, and that it legalized broad attacks on speech, but that the speech was not the cause of the arrest.

Petitioner documented felonies by an elected official he also sent emails to, and posted evidence of those crimes all over social media. Petitioner reported state-witness perjury in multiple cases to the Florida Inspector General, for which Petitioner was detained and threatened the next morning, on request of DeSantis. The District said all this didn't happen. But it did, and no defendant denied that it happened. The Court's doctrine instructed the District to ignore

this, and invited the abuse that differentiates the First and Fourth Amendments.

All this was excused by the District based on an error-filled probable-cause finding under color of an evasive and ambiguous arrest affidavit that relied on material perjury, and that could not justify state actions well before it was written and long after it was abandoned. Not charging Petitioner in state court enabled the District to use the Court's doctrine, to arrive at those determinations and broadly deprive Petitioner of speech rights without due process, with only a low burden of probable cause for a non-speech arrest. The police lie closed the doors to discovery, and foreclosed examination of their larger narrative and the preponderance of evidence.

If police lie to arrest you and don't charge you - so that they never have to prove anything and it is your word that they lied against theirs - and then lie that the arrest justifies other attacks on speech, you never get a day in court to prove otherwise, because of how district courts apply the speech doctrine.

Defendant DeSantis recently settled a similar case US-FL-SD 1:22-cv-21827, with a political speaker Thomas Kennedy who was detained fewer times than Plaintiff, but not arrested. If police simply lied to arrest Kennedy in otherwise identical circumstances (if Kennedy drove through a backwoods county where cop and judge were in the same political machine), the court would have applied Nieves to excuse the detention. It is as

simple as a cop saying "there was probable cause" so we can attack his speech all over the map and calendar. In both cases, Kennedy and Petitioner, there were no statements by anyone other than a cop. But in Petitioner's case, the cop said he was concerned about a third person, which created a probable-cause umbrella to detain and threaten Petitioner seven months later for sending a whistleblower complaint.

This exposes features of the Court's doctrine that can be gamed:

A) Courts are supposed to consider a preponderance of evidence over all events to determine the real cause of a state attack on a speaker. But this is subjective and time-consuming and requires state actors provide discovery and testimony, at a time when state defendants ask courts to apply a narrow template to initial facts to dismiss a complaint on its face. The state can easily get the court to apply the narrower "retaliatory arrest" template, by arresting someone without needing to charge him or provide any documentation.

B) Arrests and probable cause are treated generously by courts. Subjective judgment by police is given presumptions of good faith. Probable cause by habit, is accepted based entirely on statements by police, without adversarial input from the person arrested. Even though this is inappropriate when probable cause is later reexamined in a civil complaint, like when the person arrested swears the cop lied. If state

defendants can re-cast a civil defense of speech into "The War on Cops", they can summon the entire cop cult to support an attack on speech and treat the plaintiff as still criminal defendant.

C) The Court has diligently considered speech cases which are amenable to certiorari, because descriptive detail in the record allows them to serve as a template for how to consider facts. So that if state actors think what they are doing is plausibly legal and it is very close to the line, they will dot every i and cross every t, and create a record which this Court will examine in fine detail. But if state actors know they are breaking the law from the start, they will just beat someone in the street without even creating a court record. So this Court will spend a ton of energy saying exactly where the line is, when state actors think their actions can be justified in the record and provide that level of detail. But state actors whose consciousness of guilt causes them to avoid making any record in the first place or to lie, can cross that precise line by a mile and never even be known to this Court.

Consider the objective of a false arrest is not to charge someone with a crime, but chill his speech. That can be achieved without a witness or police report, just take him to jail, publish his mugshot, and turn him loose without a charge or day in court. If you file a false arrest case making speech motive irrelevant, the court will look at the narrow events of the arrest and say it is no big deal. The court will do the same thing if you file a political speech case

including an extended pattern of events. In neither case are the larger facts considered, but only the immediate moment of arrest.

The same is true if a speaker who was arrested files a speech case without even mentioning the arrest. The state defendants will say but wait, look at this, he was arrested. As long as there is no documentation in the arrest mentioning any speech - because there is no discovery at all not even a police report or witness - then there is nothing for the court to examine to discredit that all attacks on the speaker can be related to the investigation or probable cause of the arrest.

The state moves from retaliation, to retaliatory arrest by arresting someone, then saying everything else was tied to the arrest or investigation, and then saying the arrest and everything connected to it was subjectively justified, without then needing to provide any discovery or documentation tying the larger pattern of attacks to the arrest. The cop's supposed moment of subjective judgment, creates a broad umbrella over years of government acts. So if there is subjective probable cause (without discovery or witness), and no evidence the arrest wasn't connected to other speech attacks (except the plaintiff's own averments), then a state can make a throwaway arrest to erase all attacks on political speech without getting to answer or discovery.

If police follow someone around for years who talks bad about them, and then arrest him for stealing

candy at a convenience store, a court can just say I am not going to read through all this because Nieves does not involve following anyone around or police lying in another case yada yada... Just give me a one-sentence averment that there was subjectively some crime that fits into the narrow fact space the doctrine tells me to look at, so I have an excuse to throw it out. It's not whether people who steal candy are usually arrested, it is whether police can use it to stop courts examining other events.

As long as police arrest a person at some point not even presenting witness or discovery, the state can attack speech for years. They say look, there was plausibly some vague probable cause in a specific location, this makes all the remote and various acts irrelevant to the issue decided, dismiss the whole case. The tunnel vision, allows districts to ignore the plaintiff's averments, and allows space to infringe speech in a set of facts outside the narrow factual focus area of the applied rule, a no-mans land where the state can attack people all day. On appeal, there is a big difference between what districts should do and are forced to do.

Suppose the drivers' license office fires someone over a pro-life bumper sticker, but then real quick reports the person for driving over the grass by the parking lot, and has him arrested. Can the district court throw away months of abuse to say there was probable cause to arrest and fire him because he vandalized property? How about if they just lie that he drove over the grass - lie that a witness said he

did - without ever naming or producing this witness? Does that move a speech case into criminal law, so New Federalist judges move from protecting speech to protecting state advantage to attack criminals using lies? Remember, if the speaker is suing over years of abuse and being fired, bringing a false arrest case for lack of a witness doesn't create a venue for those facts. The moment he says speech and speech motive, it gets dismissed.

A district court has discretion to conduct a bench trial without witness or discovery, of whether the cop's sworn statement is false. Courts are given discretion to say the defendant's firsthand witness statements are not credible, or provide a conclusory connection between the undocumented arrest and the larger pattern of speech attacks. This is presented as a dispute about discretion on fact, when the real issue is letting districts find fact in a weak process. Courts face a political risk relying on the statements of an unpopular criminal pro se plaintiff to force elected officials into discovery, when state defendants don't even dispute the plaintiff's statements, merely exercise their right to remain silent.

When there are larger facts than just narrow probable cause, with multiple events all over the place, district courts are invited to ignore facts that fall outside the neat plot considered in previous cases, rather than chase the State all over the place mining through an enormous record. The greater workload the state has created with its pattern of

extra-judicial or off-the-record speech attacks, the greater temptation for district courts to conserve resources by misapplying the narrow template.

Given the choice, district courts would rather apply Nieves than a Mt. Healthy or O'Hare Truck template, which enables them to clear out their docket without wading through a lot of facts: Was the plaintiff arrested? Dismissed.

District courts need requirements to examine the back-story that led to the arrest and to the other events, and did defendants produce fact to do this or else produce fact necessary to do so, which deprives them of discretion prior to answer or discovery, in the circumstance when rather than submitting facts to examination, defendants obfuscate and lie and say just look at the narrow fact that the plaintiff was arrested. And where the plaintiff being accepted as true is not enough to overcome the political convenience of courts to accept probable cause with an uncritical attitude. Not just look whether people are usually arrested based on the facade of color already provided.

Otherwise state actors will use color of a justification for a single event as a shield to attack speech all over the map, which is done regularly in Florida. Pro-cop judges will let police run all over the place abusing political speakers.

II. Nullifying Federal Jurisdiction with a Bad Record (the standard can be defeated by police lying)

The difference between cases like Nieves and Mt. Healthy and Petitioner, is those cases generally involved a witness of a crime and a criminal charge, which created venue to examine the circumstances and measure law against them. Or they involved an attack on speech in an event without any arrest that was nevertheless admitted and documented by non-cop defendants. Gonzalez involved video evidence produced by the state, Nieves prosecutors created a venue and cooperated with discovery. Petitioner has been deprived of any state evidence, neither the audio recording of his in-custody interview, nor documents which the cop lied exist in the affidavit.

Some might argue Nieves got to the answer stage and the judge considered video, because there was no signed warrant (produced in a hidden process). Instead, split-second arrest allowed public video to create a dispute. But a signed warrant does not prove a cop provided the court the information he had in secret, or that it has been examined whether he did. In Petitioner's case there was obviously missing information, but the District used this Court's doctrine to create discretion on fact rather than discovery, imagining things the affidavit didn't say, and saying it was conclusory the hidden information helped Petitioner.

To support dismissal of Petitioner's claims, the

Magistrate used phrases like "to the extent" defendants acted in official capacity, without examining facts of what they even did. The Magistrate wrote "Even if true, conducting a welfare check is not a violation of civil rights", without considering actual evidence of what was true. Probable cause for a welfare check was given an even lower burden than a criminal arrest, so that a "welfare check" can be ordered by a governor who had no contact with the target except receiving a whistleblower complaint.

Petitioner's case did not even involve a witness statement from a victim who sought a civil restraining order, much less a criminal charge. The normal course of a harassment or threat case in Brevard County 05-2021-DR-050417 (Jennifer Jenkins v. Randy Fine) and Pinellas County 21-004904-FD (Anna Luna v. William Braddock), is for the supposed victim to swear a statement to get a civil restraining order and to police. In both those cases that had witness statements, both supposed victims were denied restraining orders, much less a criminal charge.

Is it normal to arrest someone for whom they could not even get a restraining order, for driving through a county the victim is connected to? How about when they didn't even try to get a restraining order, like in Petitioner's case? Does the Court's doctrine fall apart the further state action is from a normal, documented investigation, amenable to the standard created through certiorari on well-documented cases?

Petitioner's primary crime was driving over the largest bridge in Florida, and back 94 minutes later without event, combined with a deputy saying he did not know what Petitioner did for those 94 minutes (evidence is he knew Petitioner was posting Cops2Prison.org fliers). Petitioner cannot raise the issue of whether speakers who engaged in similar activities were charged. Because a person who drives over the largest bridge in the state, with no witness that either crime victim or political speaker ever believed they were in the same county, or a person who on a different occasion sends a derogatory sarcastic private email to an unrelated elected official on the other side of the state, does not have a record of what he did publicized anywhere. Just as there is no witness or discovery in any state court, of the actual events in Petitioner's case.

But the lack of any crime victim as witness or discovery, or of any state court record supporting various events, did not deprive state actors of a legal basis accepted by a federal court for their varied attacks. Rather it gave opposing parties and lower courts freedom to imagine vague inventions and recite gossip about what happened, with no record to contradict imagination other than Petitioner's sworn statements as the only firsthand witness. But as a layman opposed by the Florida Attorney General, the District applied the legal standard as if Petitioner was the defendant, so the vague false inventions of the government were accepted as true until Petitioner proved them false by some record other

than his own sworn statements, which of course was impossible since Petitioner was the only witness and no discovery was granted.

The Court's doctrine designs abuse, outside the neat factual circumstances provided by Gonzalez and Mt. Healthy, when the state does not admit and defend anything they did beyond the narrow facts colored as probable cause, such as when there is an arrest but no state court record or evidence, or when there is no witness statement or discovery or an affidavit contains lies. So that district courts have discretion to dismiss cases which at the early stage rely largely on the sworn statements of the plaintiff, rather than on a record created by defendants who tried to justify their actions in state court.

The words "lie" and "perjury" do not appear in the Gonzales, Nieves, or Mt. Healthy opinions. They do not provide districts a mandate to deal with real-world circumstances like cop perjury, as 42 USC 1983 intended. District courts can look only at whether state actors facially violated the plaintiff's rights under law, not superficially under color of law, blinded to the fact that cops can lie because Supreme Court Justices remade law blind to the fact that man is evil.

In every major cited case this Court grants certiorari, it looks like the speech attackers said "this is exactly what we did, we think this is legal" (rather than the plaintiff saying "the cops lied and the district accepted it, this process is illegal"). The Court's First

Amendment retaliation doctrine is built around cases where the attackers followed the law at every stage except the target's action did not justify the attack without the political speech component.

The apparent rule is that as long as state actors do their crimes off the books meaning without producing documentation or regulation by a judge, their crimes are invisible to federal courts for not making any record that federal courts are forced to consider. New Federalists think it is important for the executive branch to have such power, preferable to judicial regulation and the separation of powers.

It's easier to attack you in the street when they don't create any record, simply by being so illegal that defendants are smart enough to hide what they did from examination in court. Because it gives federal judges discretion to imagine what plausibly happened. And the lack of a state court record gives government attorneys freedom to file false averments without fear of penalty, which a federal court has discretion to not penalize and accept as true. And the lack of any state charge, discovery, court record, or even police report or civil complaint or public record with a witness statement, leaves only the sworn statements and documentation from an unpopular person whose speech was attacked, which a district court has discretion to ignore (otherwise take a political risk).

District courts can rely on the fact that a state court signed a warrant based on a probable cause affidavit,

without regard to whether it contained lies or did not include the entire circumstances, meaning without process appropriate to the First Amendment. Then districts don't have to accept the plaintiff's statements (about state actions and motivations), and consider and examine the totality of events, in the case when there was never a state charge or discovery, and the federal complaint is the first-impression adversarial process to produce facts and discovery of what actually happened.

Absent requiring federal venue to supplement state process, attackers of speech have to voluntarily submit to regulation, by creating a paper trail and handing it to the court. Such attackers will only create a paper trail and court record when they think they are close to the line and can plausibly justify their actions. This Court's energy is spent on those factually well-documented legal disputes that are right at the line. Whereas if speech attackers know they are violating the law nowhere close to the line, they will defeat oversight by lying and doing things off the record.

Consider a politician in secret asks cops to beat someone for posting "Cops2Prison.org" fliers, and there is no arrest report. Or the cops lie in an affidavit, which perjury is ignored and condoned by local officials. A federal court has no honest record of those events claiming to be probable cause, to make the Court's preferred determination of what caused the events. Defendants can later insinuate there was some crime without needing any witness. And a

federal court will dismiss any complaint for not having a record to examine, and only the sworn statement of the plaintiff as crime victim, against the unwitnessed averments of the Florida Attorney General.

Like suppose Sylvia Gonzalez was never arrested just dragged out of the building and beaten, and the local cops later denied it. Or suppose the cops arrested her, but instead of providing video and trying to build a case in state court, the cops just lied that someone saw her stealing documents and never produced discovery. Because instead of being a politician, Gonzalez was just some indigent who wore an "ACAB" t-shirt, and police knew she could never afford a lawyer. And public records requests returned no evidence it ever took place, and all Gonzalez had was a jumpy cellphone video. (And the state lied to the district like in Petitioner's case, that the video did not show what Gonzalez swore it showed.)

A person who is never charged with a crime, where state actors never even try to argue in state court that what they did was legal, is denied the same protections as people against whom the state thought their attacks were plausibly legal enough to try to support them in the state court record. Because federal courts reward a state for lack of process, rather than curing it.

District courts should not reward state actors, who try to keep their activities out of the eyes of judicial

oversight. Federal courts should not be limited to handling one or the other fact or law, but be able to handle both. Federal claims cannot be the second of a two-stage process, where the first stage of getting police to tell the truth occurs in the state. Like assuming police have become more professional and "the people" stop them lying, here is our speech doctrine. This gives federal law zero immunity to police who lie. If plaintiff cannot walk into a federal court and say "the cops who arrested me lied, it was really because of speech", then there is no point.

If speech attackers break any link in the chain of orderly legal process this Court assumes, whether not going to court at all, lying in court, arresting someone without a witness or police report, getting a state court to enjoin speech outside laws or rules, holding someone without arraignment, never charging someone to avoid producing discovery, lying in court when sued, or if a judge at any point in criminal or civil court who also dislikes the speech ignores law to cover up the crimes by using discretion to not penalize or deter filings of false statements and then accept those statements as true, this Court's theater of law regulating state behavior is irrelevant.

District courts need guidance to create a venue to get to answer or discovery, to deprive them of discretion when rather than eagerly submitting facts to examination, defendants obfuscate and lie and the plaintiff being accepted as true is not enough to overcome it.

III. The Residual Problem is not How to Rule on Facts, but the Process Producing Them

On one side, doctrine guiding district courts how to consider available fact has been expanded or refined, for people whose actions created probable cause, but who probably would not have been arrested except for their speech. This Court has discriminated between fine details, when given a detailed record. On the other side, this Court provides very little line on the process police can use, to make sure that level of accurate detail gets up to this Court. A standard for considering facts is useless without a standard for producing facts. Petitioner is reminded of the difference between precision and accuracy in middle-school science class, where students recorded inaccurate results using 10 decimal places.

Justice Alito in Gonzalez v. Trevino, said there were fuller facts than those considered by the Court, rendering fine analysis pointless before a fact-producing process; what facts are produced dictates the outcome.

The Court's fine speech-probable cause line is more precise than the broad discretion of police to lie, and of lower courts to allow false statements in filings and then accept them as true and even invent things. Particularly when politics and indigent nobodies are involved. So that tightening up the discretion line or the actually-following-the-law line, makes more sense than refining a line within millimeters which lower courts and state actors can jump over by a

mile, simply by throwing up nonsense to evade the line without even putting in much work.

The fact that colonies did not have to produce facts for Article III courts was cured by 42 USC 1983, and US law demands extra process for speech.

Petitioner asks this Court to draw as thoughtful a line regulating when a district court has to create a venue to discover fact, or even just accept the plaintiff's undisputed sworn statements as true, versus when the district court can recite false gossip and imagination, to dismiss with prejudice prior to answer or discovery. It seems focusing on this second line of where the discretion and flexibility in the process is, which affects what fact is considered, offers more low-hanging fruit for protecting speech in real-world attacks, than adding more decimal places to how fact is considered, when the state process for documenting and producing fact is imperfect.

There is no point in this Court obsessing over the dimensions of a door which state actors can walk right around, because the building has no wall forcing them to enter through the door, to the extent they can just not create a record and lie and ignore the law and blow off this Court's entire theater, in the common situation when they don't begin with a dream to win honestly.

IV. Generally Applicable Principles of Due Process Demand Venue

Petitioner has written a lot of software, designing processes to solve problems. Designing a process to solve a problem is easy, when the programmer wants to solve the problem. The problem is people will write a process to do what they want, like a bank programmer writing a program to transfer money into his own account. That problem is solved in software with peer code review and relying on old, proven software. That problem is solved in law by the Court relying on written law and history, to validate the process. But in law, relying on history can also be abused to solve the programmer's personal problem, despite a solution to the intended problem being quite obvious, such as in the case of jailhouse confession witnesses.

There seems to be a shortage of applying generally applicable principles to due process, rather than applying historical or enumerated process, despite the first one being easier than represented. People offer excuses that states are immune to the hassle of process, when that was clearly addressed in written laws. Elected-official discretion-privilege-immunity is politically popular; due process is unpopular. So they use history to solve their own political problem, the opposite of the problem courts are intended to solve.

If history doesn't force courts to provide due process, originalists will find an excuse in history not to. Doing whatever the stronger faction wants, which

was popular in caveman times, is dressed up as intellectual analysis of the virtuous colonial era.

The Court seems to have lost sight of the generally applicable principles of why process is required in an imperfect world, in favor of trusting the executive branch and "the people", forgetting whom courts and process were made to protect us from. It's as if mankind has improved from his past evil nature, so that a "Living Constitution" no longer demands heightened checks to protect speech from lying cops, faction judges, and witch-prickers.

State process protection against false arrest is not the same as process protection against the state using color of valid arrests to attack political speech. Federal courts were given jurisdiction to supplement state Fourth Amendment protections, not to rely on or outsource to them. 42 USC 1983 is so you can tell a federal court "a cop colored an arrest as if he was following the law to satisfy the state's process, which is why I need more protection for my speech than the local process, such as discovery and confronting witnesses to examine what actually happened".

When there is speech infringement with arrest, there must be a venue for confrontation and evidence the state did not provide as due, before a federal court can rule on fact. In Petitioner's case this would show what defendants actually knew, including they lied and things were hidden from the courts. And that nothing Petitioner did legalized various events attacking his speech.

V. Conclusion: The real issue is not how to consider fact, but the process for producing it.

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(Appendix Published Separately)