

No. \_\_\_\_\_

24-5988 ORIGINAL

IN THE  
SUPREME COURT OF THE UNITED STATES

FILED  
NOV 12 2024  
OFFICE OF THE CLERK  
SUPREME COURT, U.S.

In Re BRYAN LEE GREGORY — PETITIONER  
(Your Name)

ON PETITION FOR A WRIT OF MANDAMUS

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PETITION FOR WRIT OF MANDAMUS

BRYAN LEE GREGORY  
(Your Name) #32331045  
F.C.I. MARTANNA  
PO BOX-7007

(Address)

MARINNA, FLORDIA 32447  
(City, State, Zip Code)

n/a

(Phone Number)

ISSUES PRESENTED

- (1). DID CHIEF JUDGE SMITH VIOLATED 28 USC 352 (A) BY DETERMING DISPUTED FACTS IN MR.GREGORY'S COMPLAINT AGAINST DISTRICT JUDGE STEVEN BOUGH AND OTHER APPEALLANT COURT JUDGES.
- (2). WAS MR.GREGORY DENIED A FAIR AND UNPARTIAL REVIEW BY THE JUDICAL COUNCEL.
- (3). WAS MR.GREGORY DENIED DUE PROCESS RIGHT TO HAD HIS COMPLAINT APPEAL REVIEW BY A FIVE-JUDGE PANEL.

PARTIES ENVOLVED

(1).Chief Judge Smith-8th Circuit,  
(2). Judges of the 8th Circuit Judicial Council,  
Circuit Judge Jane Kelly, United States Dist Judge Roberto A. Lange,  
Dist Judge Beth Phillips, Dist Judge J.F. Marshall, Jr. and United  
Dist Judge M. Rose.

JURISDICTION OF THE COURT

The United States Supreme Court has jurisdiction pursuant to federal law 28 §1651; The all writs act and Supreme Court Rule -20.

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF WRIT OF MANDMUS

Petitioner respectfully prays that a writ of mandamus be issued against the judgements below.

OPINIONS BELOW

[ ] For case from federal courts;

The opinion of the United States court appeals appears at Appendix- [A] -[B].

[ ] Reported at JCP No. 08-23-24-35, ruling date 7/7/2023 and the Judicial Council 9/12/2023.

[ ] Also as part of the record for Appendix -[C] is judge Steven Response to the writ of mandamus filed against him.

REASONS AND EXTRAORDINARY EXCEPTIONAL CIRCUMSTANCES FOR THE GRANTING  
OF A WRIT OF MANDAMUS

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There is clearly extraordinary exceptional circumstances that warrants this Honorable Courts jurisdiction over this matter. As Cheif Judge Smith of the 8th circuit and judges clearly violated federal law under 28 USCS §352 he his bias conspiracy quest to protect another bias crooked & corrupted federal judge , Western District of Missouri Judge [Steven Bough] as federal law under 352 does not allow a chief judge to dertermin disputed facts. and Mr.Gregory filed a complait against Judge Steven Bough that he had ex parte communcations and meeting and discuss the merits of his sentencing issues and determin his sentencing without Mr.Gregory being present. Mr.Gregory also complained that Judge Bough conspriced with Court Clerk Micheal Gans and the judge panel of case no 21-1302 to deny Mr.Gregory access to the courts to file a writ of mandamus against Judge Bough pursuant to 28 USC §144, and a seperate writ of mandamus against court clerk Micheal Gans to file the writ of mandamus against judge Bough.

Note: Mr.Gregory raised this very same issue that he was sentence by a bias judge as Judge Bough had ex parte communcations with Prosecutor [Casey Clark] in issue (9) in his 2255 petition and Judge Bough unlawfully ruled that Mr.Gregory waived his rights to argue he he was sentenced by a bias judge , Mr.Gregory was clearly denied a fair 2255 hearing as Judge was bias in that hearing as he had a personal enterst in the outcome of that proceeding, futhermore the government did not raise that defense in its response, judge Bough in his bias raised for the government [e]ven this conflict of enterst can not be waived under 28 USC 455, so if thyis conflict could not be waived then why did

not grant a review in 23-7031, Judge Bough even ruled that Mr. Gregory waived a subject matter jurisdiction issue in issue [33] in his 2255. Mr. Gregory raised this issue again in 23-7031. But once again this court refused to review this issue even though it can not be waived. Mr. Gregory raised several different of different conflicts of interest with his own attorney, this conflict is on the record and Mr. Gregory was clearly abandoned by his own attorney during a critical stage, his pro se motions to withdraw his guilty plead. The very last time he saw his attorney his attorney told him he deserved 10-years in prison this was clearly in the writ of cert in 23-7031 and so far no court has ever inquired into Mr. Gregory's conflicts of interest claim against his attorney and the conflict of interests claims is clearly supported by the sentencing hearing transcripts [b]ut this court denied review.

This Court or any other court can not tell Mr. Gregory that there is something very seriously wrong with this picture [i]t's called bias. Nobody can tell Mr. Gregory that the 9-Supreme Court Judges even review Mr. Gregory's writ of certs under 23-7031 and 23-7032 because Mr. Gregory has several different structural errors in his case that demands overturning his conviction.

The Judicial Council violated Mr. Gregory's rights as they unlawfully approved Judge Smith's unallowable decision in Mr. Gregory's complaint against Judge Bough and the appellate Judge Panel of 21-1302, Mr. Gregory was denied an impartial Judicial council as Judge Beth Phillips was not allowed to be on that judge panel and the law demanded for there to be five judges.

All these judges from Judge Smith to the Judicial Council Committee was bias in order to protect another bias corrupted crooked judge.

Judge Bough was futher bias in his conspricy and quest with federal prosecutor [Casey Clark] , and federal probation officer [Karlar Duryea] as they conspired and committed prejury and fraud upon the court and lied during Mr.Gregory's sentecing hearing and lied in the psi respot claiming that the Government had noobjections to the psi report . The fercal prosecutor knowling used prejury testimony during his supression hearing , knowly suppressed a video that would change the out come of his supression hearing , Mr.Gregory could used this same video from the firetruck to impeach officer Sgt Ellisons testimony during his sentencing hearing. THE KEY WITNESS IN MR.GREGORYS CASE FIREMAN LT CHRIS NORRIS BELL COMMITTED SUICIDE OVER MR.GREGORY'S CASE ON DECEMBER 20, 2020.

Mr.Gregory's case is a poster child picture of the bias and corruption of roit and decay of the United States Court System.

There is very extraodinary exceptional circumstance that warrants this court to issue this writ of mandamus as justice requires it.

STATEMENT OF CASE

(1). Mr.Gregory filed a 28 USC 2255 in Civil Case # 6:20-cv-03294-  
Western District of Missouri. In issue-(9) Mr.Gregory had rasied  
the claim that he was sentence by a (B)ias Judge , Judge Steven  
Bough, because he had ex parte commucations and meeting prior to  
his sentencing hearing.

(2). Mr.Gregory had filed motions pursuant to 28 USC 455 for Judge  
Bough to withdraw as 455, he had a percury and personal enterst in  
the out come of the proceedings and he had knowledge of undisputed  
facts.

(3). After Judge Steven Bough failed to recuse himself , Mr.Gregory  
seeked the power of The 8 Circuit Court of Appeal to mandate Judge  
Steven Bough to withdraw from his 2255 petition. This case was filed  
under case no. 21-1302.

(4). At the same time this petition for writ of mandamus was pending.  
Mr.Gregory then discoverd 28 USC 144 law. So Mr.Gregory sent a seperate  
motion under 28 USC 144 with supporting affidavit for Judge Steven  
Bough to withdraw from the 2255 proceedings. The court acted like it  
did not recieve it, so Mr.Gregory sent another petition under 144  
to Court Clerk Micheal Gans requesting that he transfere it to the  
Missouri Western District court. It was transfered on 5/12/2021 and  
label as filing of papers recieved from the court of appeals.

(5). When the 8th Circuit recieved and filed the oringal mandamus  
under case 21-1302 they served a order upon Judge Bough to respond.  
In this order it required him to serve Mr.Gregory with his response.  
and the court allow Mr.Gregory to file a response brief within 7-days  
of Receiving Judge Steven Bough's response.

(6). Judge Bough [never] served Mr.Gregory with his response, and

court Clerk Micheal Gans ~~not~~ allow Mr.Gregory the 7-days as the court had granted for him to even file a response brief as he submitted to judge panel to be ruled on the very next day after recievinf Judge Steven Bough's response.

(NOTE): Judge Bough and Court Clerk Micheal Gans completely willing and knowly denied Mr.Gregory is most basic fundimental Due Process Rights Access to the Court. As Mr. Gregory did not receive Judge Steven Bough's response as Judge Steven Bough egnored the courts order a court rules to serve Mr.with a Copy of his response, and Micheal Gansdenied Mr.Gregory access to the court as he was not allow to even file a reply brief to judge Bough's response as Micheal Gans :Court Clerk submitted the petition to the judge panel to rule on the day after Judge Steve Bough filed his response.

(7). Mr.Gregory's rights access to the courts was futher denied in this case as when Micheal Gans had sent the court's order to Mr. Gregory at USP Marion he had just been transferred and was at the Oklahoma transfere hub. enstead of the USP Marion Mail room staff fowarding it to Mr.Gregory they sent it back to Micheal Gans . Micheal Gans than remailed it to Mr.Gregory. In the middle of this cross mailing Mr.Gregory sent a motion to Micheal Gans for continuance as he had not received the courts order yet, Note: Micheal Gans himself denied this motion as [MOOT], (O)nce again Mr.Gregory was denied access to the court to file a motion for Rehearing and hearing Enbanc from the neglect of the USP Marion Mailroom staff as they did not foward Mr.Gregory his legal mail to by policy. Mr.Gregory's rights to acces to the courts was futher violated by Micheal Gans Court Clerk as Micheal Gans was very awear that Mr.Gregory did not receive the court's judgement in 21-1302 beause of this , but he still denied

Mr.Gregory's motion for continuances and ruled the issue was (MOOT). (8). After Judge Bough refused to rule on the 28 USC 144 petition Mr.Gregory seeked another seperate petition for writ of mandamus pursuant to his motion he filed under 28 USC 144 that was filed under civ doc 47, 5/12/2021, pursuant to BERGER VS UNITED STATES , 255 us 22, (1921).

When Micheal Got this new and seprate petition under 28 USC 144 for a writ of mandamus he filed it under #21-1302 , the mooted case as only a [LETTER] on 5/03/2021.

(9). Mr.Gregory then attempted to file a seperate writ of mandamus against Micheal Gans :Court Clerk to have him court order to file the seperate writ of mandamus against Judge Steven Bough properly. [B]ut once again Micheal Gans refuse Mr.Gregory access to the courts as he filed this petition as motion for [Recondisderation] under the [MOOTED] case of 21-1302.

(10). Then When Mr.Gregory advance on the appeallant court again to grant him access to the courts to file this writ against Micheal Gans and have him court order to file this seperate petition for writ of mandamus against a very bias and corrupted Judge Steven Bough the appeallant court denied this petition for [reconsideration] without subject matter Jurisdiction. As Micheal Gans had already denied Mr. Gregory prior petition for continuances [because he had not received the courts ruling as the BOP had foward the courts ruling back to him] (A)nd when Mr.Gregory tried to file a motion for rehearing and Hearing Enbanc , on the socalled motion for [reconsideration] once again Micheal Gans had ruled these petitions as [MOOT], even though that Mr.gregory had filed them within the courts 14-day requirement. So how is everything Mr.Gregory has filed is [moot] , but the court had jurisdiction to rule on a moot case when it denied the socalled

motion for reconsideration.

"The level of corruption and bias could not be anymore higher than in Mr. Gregory's case". Judge Steven Bough had a duty under laws 28 USC 455 § 144 to withdraw from his 2255 proceeding. Then being bias he had ruled in Mr. Gregory 2255 on issue 9 that he waived his fundamental Due process right to a fair trial to be sentence a unbias judge. Mr. Gregory was clearly entitle to a evidetary hearing on rather or not if Judge Steven Bough had ex parte commucations and meeting with prosecutor Casey Clark and discuss and the merits of sentencing hearing and decieded Mr. Gregory sentence without him.

Mr. Gregory clearly raised this issue in his writ of Cert for review by this very court of the United States of America in 23-7031.

This Court denied me review on this very same claim when even bias Judge Steven Bough had ruled that Mr. Gregory had waived his rights to be sentenced unbias and impartial court.

Judge Steven even ruled that Mr. Gregory waiied his right to challange the courts subject matter jursidiction.

This bias issue is futher compounded is that Mr. Gregory clearly had a conflict of enterst with his attorney even on the record , his attorney even told the court that he had no ententions of getting behind his prose motions to withdraw his guilty plead and was abandone by his attorney at a critical stage of his case. His attorney hide evidence from him, he even hide the sentencing memorandums from Mr. Gregory , both of them the defendant's and teh government's .

This attorney told Mr. Gregory he deserved 10-years the last time he saw him at the Green County Jail, Mr. Gregory had told him that he did not want his bias friend Ms, Carlye to repesrent him in his derect appeal, but they went behind his back and had bias Micheal

Gans appoint her to his derect appeal, and when Mr.Gregory seek a new conflict free attorney purusant to 8th Circuit rule 27-(B) , he was forced to represent himself pro se and agisnt his wishes. Futher Note; Mr.Gregory's attorney Brady A Muskgrave [DID NOT FILE A AFFIDAVIT DISPUTING ANY OF THESE FACTS] , that he hide Brady material evidence from him, that he conspired with the federal prosecutor to be ineffective. (THAT HE TOLD MR.GREGORY THAT HE DESERVED 10-YEARS)

Mr.Gregory's case is a complete miscarriage of justice and his case is the poster child of the corruption that excist within our American justice system and courts.

Mr.Gregory has mulitpal "structrual errors" in his case. He was clearly denied his 6th amendment right to counsel. Mr:Gregory sentencing transcripts is material evidence on it's face that Mr.Gregory's attorney abandone him a critcal stage , his hearing to vacate his guilty plead. These very same sentencing transcripts is evidence on it's face that Mr.Gregory's conflict excisted as he disputed everyone of Mr.Gregorys issues/errors.

The fderal prosecutor lied to the court after Mr.Gregory himself prose argue to the court that the government violated the written plea agreement by adding another enhancment that was not part of the plea contract, and when the court ask Casey Clark; Prosecutor had the Government read the psi report and did it have any objection; He said yes we have read the psi report [a]nd we have (no) [objections], The PSI Writter federal probation officer [Karla Duryea] stated in the PSI Addendum that the government [had no objections] to the psi report. When Mr.Gregory obtain his trial attorneys orningal case file on his case he discoverd a Google generated E-mail from [Casey Clark] to [Karla Duryea] objecting to the psi report to add that 3CA enhacement.

When Mr.Gregory raised the issue in his 2255 that federal prosecutor [Casey Clark] had conspired with federal probation officer [karla Duryea] to surcumvent and violate a United States Written contract the The [Casey Clark] had made with Mr.Gregory she did <sup>not</sup> supply the prosecutor [Casey Clark] with a affidavit disputing these facts. So here we have a federal prosecutor [Casey Clark] committing (PREJURY) to the court lying about hot having no objections to the psi report. and you have a federal Probation Officer [Karla Duryea] committing fruad upon the court by filing a false psi report and lying about the fact that the government had no objections to the psi respot. This clearly denied Mr.Gregory his fundimental Due process rights to a fair trial.

The more trubling part is the United federal government who repersent the United States of America committed multipal federalcrimes in Mr.Gregory's case to maintain a unlawfull conviction , [prejury], conspiracy to committe prejury, [wire fruad] , conspiracy to committe wire fruad, [civil rights violation under 1985, 1983, 1981] as they conspired to denied Mr.Gregory his civil fundimental due process afforded to him and protected by teh 1st, 4th,5th,6th, 8th and 14th Amendments of the United States Constitution.

Mr.Gregory has materail evidence of fact that [Casey Clark] suppressed Brady evidence from him, he had material evidence of fact that the government knowly used [prejury testiomony] in his supression hearing. [a]nd on DECEMBER 20, 2020 that the government's key witness [ West Plains City Fire Dpt (Lt. Fireman Chris Norris Bell) "COMMITTED SUICIDE OVER MR.GREGORY'S CASE"

The federal government [Casey Clark] allow and conspired with his witnessses to committe fderal crimes of prejury to obtain a unlawfull

conviction this very same corrupted prosecutor then conspired with a very bias and corrupted fderal District judge Steven Bough who use his power and contacts in the 8th Circuit with Chief Judge Smith with his personal contacts to the very same court and conspired to deny Mr.Gregory a fair and unpartial review under case 23-7031. Even when Mr.Gregory tried to file judical complainst against Judge Steven Bough, Micheal Gans :Court Clerk and other judges, Chief Judge Smith clearly violated not only Mr.Gregory's rights to a fair and impartial review in his complaint he [CLEARLY] (violated the law) to protect Judge Bough and his personal buddies the other appealant judges. The record is matrial evidence on its face that the all conspired to violate Mr.Gregorys rights to a a fair and impartial hearings and a complete denial access to the courts.

The law did not autorize Judge Smith to determin disputed facts, but is-excatley what he did. The law said the Dist Chief Judge Beth Phillips could not sat on the Judicial review committie but she did, and that bias Judge panel approved Chief Judge Smith's unlawfull ruling.

It's the duty of this Court to protect my gurantee constitutional rights. Mr.Gregory's case is such a miscarriage of justice what the government did along with every fderal judge has review my case and had not protect me from this unlawfull corruption is nothing short of Criminal!

My Wife died on 3-10-2022 at home alone and scared through the covid crises [believing] that justice would provail , my [baby] belief in this fact wont be in vain even in death. As I wont stop comming with this legal pursuat until good defeats evil.

A very young man died over the government , took his life as prosecutor [casey Clark] pressured him into lying against me in my supression hearing. this for his 2-kidds who are fatherless now.

## STATEMENT OF FACTS

### OF THE CASE

Mr. Gregory filed mutipal judicial complaints complainsts against Judge Steven Bough, and' appealant judges who has review his case in complaints nos. JCP 08-23-90024 through 08-23-90035.

Mr. Gregory also filed a judicial complaint against District Chief Judge Beth Phillips of the Western District of Missouri in JCP No.08-23-90096, see exhibit- (A),&(B).

In the complaint against Jude Steven Bough Mr.MrGregory complained that Judge Steven Bough had ex parte commucations and meeting with federal prosecutor Casey Clark and discussed the merits of sentencing before Mr, Gregory's sentencing hearing. (B) Mr.Grgeory also complained that Judge Bough had conspired with Court Clerk Micheal Gans and the appealant judges on different appeals - more so in appealant No.

21-1302 , to deny Mr.Gregory access to the appealant Court under a writ of mandamus against Judge Steven Bough pursuant to 28 USCS 144 to force him to withdraw from his 28 USCS 2255 petition and a writ of mandamus against Court Clerk Micheal to have him court order to properly file the writ of mandamus against Judge Steven Bough.

Mr.Gregory had raised other issues of complainst that was clearly supported by the record.

During the judicial complaint Chief Judge Eavenski R.Smith dismissed.

Mr.Gregory complaint unlawfull purusuant to 28 USCS §352 (B)(1) (A) (iii), accord J.C.U.S. Rule -11 (c) (1) (c) (d), see exhibit-(C).

Mr.Gregory then filed a petition for review with the Judicial Council of the 8th Circuit Court of Appeals. Judges - Jane kelly, Judge Roberto A. A.Lange , Judge D.P Marshall Jr., Judge Stephanie , and Western District Missouri Chief Judge BETH PHILLIPS was the 5-judge panel that was

appoint to rule on the petition for review by Mr. Gregory. In FN 2: It stated that Honorable Beth Phillips took no part in the consideration or desision of this matter. Note: Even though that Judge Phillips took no part no part in consideration she was label on the record as part of the the 5-Judge panel. The reveiw panel voted to deny Mr. Gregorys petition for review [for] (reasons) stated in "Chief Judge Lavenski R. Smith's order fo dismissal on 9/12/2023 , see exhibit-(D).

#### STATEMENT OF LAW

16 USCS § 352 (A) (2) states that: "The chief Judge [SHALL NOT] undertake to make the finding of fact that is reasonably in dispute.

Federal Court rule 21 (C) states that any member of the committee from the same circuit as the sujext judge is disqualified from considering or voting on petition for review..

Federal Court Rule 21 (C) states also: If fewer members of 4 are qualified to to consider a petition for reveiw the Chief Judge [SHALL] select a panel of [5]-Judges including the qualified Members to consider it.

#### CHIEF JUDES STAUTORY DUITES UNDER LAW

(1). Chief Judge Smith had a statutory duty not to undertake the finding of facts that are in reasonably disputed.

(2). Federal Court Rule-21-(C) mandates that the Chief Judge to appoint a [5] Judge panel if fewer than 4 or below is qualified to consider a petition for review.

#### JUDICAL JUDGE S DUTIES UNDER Fedearl Rule 21-(C)

Rule-21-(C) No Judge as the same Judge in the same circuit can considera petition for review by ether party.

## REVIEW OF CASE LAW

The United States Supreme Court held in CHENEY VS UNITED STATES 524 US 367 (2004) Under 28 USCS §1651 (a) the remedy of mandamus against a lower federal court is a drastic extraordinary remedy reserved for extraordinary cases . Given that with traditional use in aid of appellate jurisdiction both at common law in the federal courts has been confined the lower courts prescribed jurisdiction even though in such situations higher federal courts have not confined themselves to arbitrary technical definition of jurisdiction , only exceptional circumstances amount to judicial usurpation of power or abuse of discretion well justify invocation of extraordinary remedy. As a writ of mandamus is one of the most potent weapons in Judicial arsenal , 3 conditions must be satisfied under 28 USCS 1651

- (1). The petitioner seeking the writ of mandamus must have no other adequate means to obtain relief.
- (2). The petitioner must satisfy the burden of showing that petitioners right to issue is clear and undisputable and,
- (3) Even if the 1st two prerequisites have been met then the issue court in excess of its discretion must be satisfied that the writ is appropriate under the circumstances.

### REQUIREMENT ONE

MR.GREGORY HAS NO OTHER LEGAL REMEDY TO SEEK REMEDY OR JUSTICE TO CHALLENGE THE UNLAWFULLY CONDUCT OF CHIEF JUDGE SMITH OR THE JUDICIAL COUNCIL ACTIONS.

Under 16 USCS §352 (6) Which states : The denial of petition for review of the chief judge orders (shall be final) and conclusive and shall not be judicially reviewable on appeal or otherwise.

In the opinion of the JUDICIAL CONFERENCE , 449 F3d 106 (9th Cir.2006)

Held that it did not have subject matter jurisdiction to review a Judicial Council's order of Chief not appointing a speacial committee under 28 USC 352.

Mr.Gregory has no other legal avenue or legal remedy to review Chief Judge Smith's unlawfull conduct and the only judicial review Mr. Gregory has is by writ of mandamus to the United States Supreme Court.

#### CHIEF JUDGE MANDATORY DUTIES

Chief Judge Smith had a mandatory obligation to Mr.Gregory [NOT TOO] "determin disputed facts".

In Mr.Gregory's complaint he complained that Judge Bough had ex parte commucations and meeting prior to his sentencing and discuss and ruled on the merits of Mr.Gregoryy without him being prsent.

Mr.Gregory hlsco complained that Judge Steven Boughhad conspired with Court Clerk Micheal Ganssand other appealant Judges to deny him access to the court to have him removed from Mr.Gregory's 2255 proceedings. These was disputed facts that could not be determine by Chief Judge Smith.

The word shall is ordinary the launguage of Command , SEE ANDESON VS. YUNGKAU 329 US 482 (1947). Chief Judge Smith violated Rule-56 and granyted a summury judgement in favor of Judge Steven Bough and the thee appealant Judges unlawfull. The United Supreme Court held in ANDERSON VS LIBERTY LOBBY 477 US 241 , 248 (1986) that no genuine issue of material fact well not lie Fed Rule-56 (C) if the dispute about material fact are genuine.

The issues Mr.Gregory complained about was not disputed by any record. Under Rule 56 (C) Judge Smith was requierd to accept Mr. Grgeory's statement of factras being true.

In other cases where defendants has raised the issue of a judge being

bias was entitle to a evidetary in thier 2255 or 2254 proceedings, see HULES VS. RYAN 706 F3d 1021 (9th Cir. 2013), this Court held : Beause allegation of judicial bias if proved would entitle inmate to federal Habeas relief , District Court abuse it's discretion in denying claim without a evidetary hearing.alsoo see NORRIS VS UNITED STATES 820 F3d 1261 (11th Cir 2016) Held that on the record we can not conclusivly show that petitioner is entitle to no relief . On the record we can not say whether Judge Camp was actually bias and Camp denies he was. The 8th Ciorcuit held in UNITED STATES VS. GOODMAN 590 F2d 705 (8th Cir.1979) Held that Goodman's alligations of false assurtaces by Government officials are not conclusory and wholly incrabbable on the face of the record . In this present case the government dididnt produce an affidavity of the United States Probation Officer in which he denied matters the statement s attributed to him by Goodman (However) No affidavits by the US Marshall was offered and apprently Goodman was not provided an opportunity to counter the probation officers afffidavit or to explain his reasons for failing to do so as envision by fedciv civ 56 and section 2255 rules consequanlythe Dist Court was not warranted in summary dismissing Goodmans section2255 motion. More importantly this Honoarable Court held : The Government's anwser and affidavits are not conclusive against the movant , and if they raised disputed issues of fact "a hearing must be held", MARCHIBRODA VS UNITED STATES 369.untied.states 360 US 487 , 494 -495 (1962). Chief Judge Smith had a statutory duty not to dertermin reasobaly disputed facts and under the same rule of law Judge Bough or the appealant Judges would had not been granted a summary judgement under the same standards of law.

Chief Judge Smith did excatly what the law forbidded him to do .

CHIEF JUDGE Smith vilated his obligations under statutory law Chief Judge was mandated by law not to undertake the findings of fact that is reasonably under dispute , see 16-USCS 352 (A) (2).

Mr.Grgeory argue in his complaint that Judge Steven Bough had ex parte commucations and meeting with fderal prosecutor Casey Clark prior to his sentencing hearing and discuss the merits of the sentencing hearingt

Mr.Gregory alos complained that Judge Steven Bough co6nspired =with Micheal Gans Court Clerk and other appeallant judges to deny him access to the courts pursuant to a writ of mandamus under v28 USC 144.

Chief Judge Smith did excatley what the law said he could not do, [determin facts that was in reasonably in dispute.

Chief Judge) Smith also violated his mandatory duty to select a judge panel of [5] judges to review the petition for review. They was only 4 judges as Judge bPhillips took no part in the consideration of Mr. Gregory's petition for review.

The Judicial Coucil violated its mandatory duty to disqulify Judge Phillips as even a member of the [5] judge panel, as she is the chief judge over Judge Steven Bough in the Western District of Missouri.

FUTHERMORE: Judge Beth Phillips had obligation under 28 USC 455 to recuse herself from this Judge panel as Mr.Gregory had also had a pending complaint against her and her supervisory powers over Judge Steven Bough as she turn a blind to Judge Steven Bough's unlawfull misconduct.

In the dissenting statement by Judge Ralph K. Winter ID Judicial Conference 449 F3d 706 (9th Cir 2006) The mandatory procedures regarding misconduct were not followed by either the the chief Judge or the Judicial Council of the 9th Circuit. The statutory scheme clearly requires that all misconduct that are non-frivolous the Chief Judge [SHALL] appoint special concil to investigate and report to the judicial council in the matter 28 USCS §353 (A).

Chief Judge owe a duty to Mr. Gregory under 28 USC 353 (A) Not to determin disputed facts and to appoint a special committee to investigate the misconduct of Judge Steven Bough and the other appellant Judges in Mr. Gregory's complaint. But Chief Judge Smith failed his clearly mandated statutory duty under law. He failed not only his duties under law but he failed to uphold and protect Mr. Gregory's Constitutional rights under the 14 th Amendment to be treated equal under the color of law and his Due Process Rights under 28 USCS 353 to have corrupted and bias judges investigated of thier bias towards Mr. Gregory.

#### JUDICAL COUNCIL VIOLATING OF DUE PROCESS

The Judicial Council violated Mr. Gregory's due process as they applied the wrong legal standard as set forth by the United States Supreme Court Id. ANDERSON VS LIBERTY LOBBY 470 US 241 , 248 (1986) The Judicial Panel approved Chief Judge Smith unlawfull order as He determin disputed facts, This Honorable Court ruled in ANDERSON , When a federal of Appeals court does not apply the correct standard in review a federal dist Court's granting summary judgment well be vacated and the case be vacacted and remanded for futher proceedings.

#### MR.GREGORY WAS DENIED A UNBIAS JUDICAL PANEL

Mr. Gregory was denied a fair review of his petition for review as

the judicial panel in Mr. Gregory's petition for review was bias towards him. Federal Court Rule 21-(C) Clearly states that no same judge in the same circuit can consider petition for review by ether party and District Court Beth Phillips is the chief Judge in the same District as Judge Steven Bough.

Even though the Judicial Councils stated that Judge Beth Phillips took no part in the consideration of the decission [SHE] was label as one of the 5-judges as mandated by 28 USC 352 and Federal court Rule-21 (C). Even if as the Judicial claim that Ms. Phillips took no part in the consideration of the Mr. Gregory's petition for review she was mandated by law to withdraw from this Judicial Council Judge Panel.

This Honorable Court held in WILLIAMS VS PENN 579 US 1 (2016), It was a unconstitutional failure to recuse constitutes structural error even if the judge did not cast a decieding vote. A multimember court must not have it's guarnteed of neutraility undermine for the appearnce of bias demeans the reputation and intergity of not just of one jurist but the larger institution of which she is a part of. Both the apperance and reality of impartial justice are nessary to the public legiticy of judicial pronouncement and this is the rule of law, itself. When a objective risk of actual bias on part og the judge rises to an unconstitutional level the failure to withdraw cannot be be deem harmless.

Even under 28 USCS 455 Judge Beth Phillips clearly also had a enterset in the out come of the judiacl petition for review as Mr. Gregory had also filed a judicial complaint against District Court Chief Judge Beth Phillips for her turning a blind eye to the unlawfull conduct of Judge Steven Bough as she also had recieved copies of the Judicial Complaints that Mr. Gregory had filed against Judge

Steven Bough and she did nothing to assist Mr. Gregory or to protect Mr. Gregory's constitutional rights to a fair trial or fair due process under the color of law. She failed her constitutional oath to serve, protect a person constitutional rights, in order to protect Judge Steven Bough's unlawful conduct.

MR.GREGORY WAS DENIED HIS RIGHT TO HAVE HIS PETITION FOR

RE REVIEW HEARD BY A 5-JUDGE PANEL

Under 28 USCS 352 and Federal Court Rule 21-(C). mandates for there to be at least a five judge panel, the law mandates for the Chief Judge to appoint 5-judges if fewer than 4 is qualified to hear the petition for review. The judicial Council stated that Judge Beth Phillips took no part in the consideration in the judicial council's ruling, without judge Beth Phillips consideration on the matter they was only 4-other judges and even this violated Mr. Gregory's Due Process rights under law to have his petition for review determined by a 5-judge panel not (4)!!.

#### QUESTION 1

DID CHIEF JUDGE SMITH VIOLATED 28 USCS 352 (A) by determining disputed facts.

Chief Judge Smith owe Mr. Gregory a statutory duty under 28 USCS 252 [NOT TOO] determine disputed facts and appoint a judicial committee to investigate Mr. Gregory's judicial complaints against Judge Steven Bough and the other appellant judges that he conspired with to denied Mr. Gregory's due process to justice and to be treated equal under the color of law.

#### QUESTION -2

WAS MR.GREGORY DENIED A FAIR AND UNPARTIAL REVIEW BY THE JUDICIAL COUNCIL.

Mr. Gregory was clearly denied his due process right to have his Petition for Review to be determined and decided by an impartial judge panel. Dist chief Judges of Western District , Judge Beth Phillips was label and assign to the mandatory 5-judge panel. Even if she did not cast a deciding vote it has the appearance of bias and it posion the other 4-judges with the appearance of bias, id. WILLIAMS VS PENN 579 US 1 (2016).

#### QUESTION -3

WAS MR.GREGORY DENIED HIS DUE PROCESS RIGHT TO HAD HIS COMPLAINT APPEAL REVIEWED BY A 5-JUDGE PANEL

Under federal law Chief Judge was suppose to appoint 5-judges to review Mr.Gregory's complaint appeal, and if Judge Beth Phillips took no part in the ruling they only left 4-judges when the law mandated Chief Judge Smith to appoint 5.

#### CONCLSSION

Chief Judge Smith was mandated by federal law to make a brief inquiry and not to determine disputed facts , but he did the very same thing that federal law said he could not do in Mr.Gregory's complaint and that was to determine the facts in Mr.Gregory's complaint against Judge Steven Bough that he had ex parte communications and meeting with federal prosecutor [Casey Clark] prior to his sentencing hearing and determine the issues in his sentence hearing and his sentence without Mr.Gregory being present. Mr.Gregory also claim that judge Bough had conspired with Court Clerk Micheal Gans and other name and filed complaints against other 8th circuit appellant court judges to deny Mr.Gregory access to the court to stop him from removing him from his 2255 proceedings. The recordation at surface under 21-1302 is evidence of fact of this unlawfull judicial misconduct that is also

criminal under federal law as its a violation under 1985 as they [all] conspired to deny Mr.Gregory's his most fundamental due process rights to access to the court, and to have his petitions and complaints review by a impartial and unbias judge panel or judge .

Chief Judge Smith violated a clearly establish and written law in favor of judge Steven Bough to keep bias Judge Steven Bough unlawfull and very unethical misconduct coverup. Then when Mr. filed a petition for review by the judicial review committie , Mr.Gregory's was meet with only more bias judges who approved Judge Smith unlawfully ruling. [A]nd the real kick in the teeth when Mr.Gregory seek a review to this court in the denial of his 2255 under #23-7031 this court(denied) did Mr.Gregory his due process right to be treated equal under the color of law. Here it is Mr.Gregory has some real major [structural errors] in his case He has levels of bias judges , his attorney abandone him at a critcal stage of his case , the hearing to withdraw his guilty plea because he discoverd his own attorney hide Brady evidence from him. Even on the record his attorney told the courts I enform Mr. Gregory that I have no ententions of getting behide his pro se motions to withdraw his guilty plea. All through the senetcing hearing he keep disputing Mr.Gregorys testimoney and objections. He even personally told Mr.Gregory that last time he saw him at teh Green County Jail in Missouri ["That he derserved 10-years "] as[and] he did [not] disute any of these facts in Mr.Gregory's 2255 proceeding.

No court has never inquired into this conflict of enterst which mandates automatic reversal!

[B]ut this court failed Mr.Gregory by denying his a review to review Judge Steven Bough biasness and his attorneys on the record conflict of enterst.

This very court held in COPPEDGE VS UNITED STATES , 369 US 438 ( 1962), That its [the duty] of the (Supreme Court) to assure the greatest degree possibale within the frame work by congress (equal treatment for every litigant before the bar.

This very court has futher held on many occassusion this court has found it nessary to say the requirements of the due process of the 14th amendment must be respected , no matter how a heinous the crime in question is and nomatter how guilty an accused my ultimatley to be found after trial of guilt has been established in accordance with procedures demanded by the constitution is found to exist.

[This Court] may not disregard the constitution because appeal came ..... [W]e must be death to [all] suggestions that are valid to appeal to the constitution [even] a (guilty man) comes to late because courts include this court were not able to enforce what the constitution demands. The prepounet [before the court is not the petitioner] (B)ut "[t]he constitution of the United States of America", CHESSMASS VS TWEETS 354 US 156 (1957). The United States Supreme Court has futher held in Id COPPEDGE , that even handed adminstration of criminal appeals in forma pauperis should be given ["no less"] (consideration) than others than on the court docket. Mr.Gregory holds the United States Supreme Court to it's own standards and duties that it imposed upon itself.

Mr.Gregory has a protected due process right under the 6th and 14th amendments for the United States Supreme Court to act accordly to the standards and duties that it imposed upon itself, so the discretionary discretion to review or not review Mr.Gregory's writ of mandamus [n]o longer exist, [a]nd Mr.Gregory well petition for a writ of mandamus against this court itself under the it's own

standards and duties that it put upon itself in Id. COPPEDGE and CHESSMASS.VS

Mr.Gregory is clearly entitle to writ of mandamus against Chief Judge Smith and the Judicial Review Committie. As the knowly and willy violated federal law in thier conspricy to violate Mr. Gregory protected due process rights to a fair and impartial hearings. 8th Circuit Chief Judge , and the other appelliant judges, and the federal judges who seat on the judicial review committie is [rotten to the core with bias and corruption] as they clearly violated establish federal law to protect a very corrupted and crooked Judge , Steven Bough and appellant judges that seats on the 8th Circuit court of appeals.

These judges [all of them needs to impeach and removed from the bench as they are corrupted and bias in favor of the federal government]. The federal prosecutor [Casey Clark], probation officer [Karla Duryea] and the government witnesses in Mr.Gregory's supression hearing [all conspired] to committe prejury, to violate Mr.Gregory's due process rights to a fair and impartial trial, and Mr.Gregory's attorney was clearly a part of this conspricy as he hide evidences in his possession that Mr.gregory had known about would had never plead guilty, he mislead him and lied to him about the plea agreement, [he told him personaly that he deserved 10-years] he hide the sentencing memorandums from him that he filed and the government filed in his case. But here this very court denied Mr. Gregory a so call descretinary review in his appeal for the denial of his 2255 under case no 23-7031 to review this. Judge steven Bough was mandated by law under 28 USC 455 and 144 to had withdraw from his 2255 proceedings as he had a percurer enterst in the out come of the proceeding. Mr.Gregory was

clearly entitle to a evidetary hearing on his ineffive assistenc claims as his attorney did write of file a affidavit disputing any of Mr.Gregory facts. The sentencing trancripts is evidence on the face of the record that his attorney abandoned him at a critical stage of his case., his hearing to withdraw his guilty plead.

Judge Bough's ruling is material evidence on it's face that he is bias as he ruled that Mr.Gregory waived his right to challenge that he was sentene by a bias judge by haveing ex parte commuticating and meeting prior to his sentencing hearing and discuss the merits of his sentencing a otyher hearing issues. 28 USE 455 5 (b) can not be waived or forfeited.

Mr.Gregory also raised a subject matter jurisdiction as the United States did not jurisdiction to prosecute under 922 (g) , as the United States did not have have jurisdiction over Mr.Gregory or the firearm in his case as Mr.Gregory had State of Missouri pending charge also pending in the Howell County Circuit Court for felony in possession of a firearm. And the City of West Plains Police Dpt release jurisdiction and custody of that gun unlawfully pursuant to Missouri State law §513.647 Rsmo 1995. That mandates any state or law enforcement officers to obtain a circuit court turn over before they can release any property to the any federal agency. This gun was under the cutody and jurisdiction of Howell COUTY frist as evidence against Mr,Gregory for a crime frist and they had exclussive jurisdiction over the res. The fderal Government violate the State of Missouri soverngnty under the 10th amendment pursuant to §513.647 as the state of Missouri did not waived or forfeited its orningal jurisdiction over the res/deer rifle. Mr.Gregory has clearly been lock up and in prison unlawfully since April 2017 by the United States of America.

[B]ut here once again this court the United States of America Supreme court denied Mr.Gregory review over this subject matter jurisdiction major defect and flaw in Mr.Gregory's and has allowed the federal government and the United States to continue this so gross of criminal misconduct to keep Mr.Gregory in prison unlawfully when they dont have the power or jurisdiction to had even prosecute him. (AND JUDGE BOUGH RULED THAT MR.GREGORY WAVED HIS RIGHT TO CHALLENGE THE COURT'S SUBJECT MATTER JURISDICTION TO PROSECUTE HIM) [B]ut this issue can never be waived or forfeited! But once again this very court denied review even over this issue!!

Any attorney or college student in law school who would review Mr. Gregory writ of cert in 23-7031 and 23-7032 that the forces of evil and bias is at work and alive and well even within the United States Supreme Court, as they are some major flaws with the Supreme Court's judges law clerks or interns that review Mr.Gregory petitions for writ of certs in these case numbers as 23-7032 was appeal from a rule -60 (b), this rule 60 (b) was all about Judge Boughs bias and conspiring with judge panel in 21-3102 to have him withdraw in his 2255 proceeding, and one of the samejudges that seat on the 21-1302 , seat on his appeal of his 2255 appeal , and his appeal in the deniel of his rule-60 (b) petition, andr.Gregory had raised a claim in his rule 60 b petition that Judge Bough had conspired with the judge panel of 21-1302. So no judge of that judge Panel should of seat on the appeal in the 8th Circuit to review that appeal as they clealy had a enterst in the out come of that appeal, and it even just looks bias. Both of cases should be review by this Honorable Court. Mr.Gregory is does not think that any of the Honorable Judges on this Panel is bias. As I have seem recently good rulings by this court

I think the bias is in the the Supreme Court judges Clerks and interns who review my case. As I can not beleave that the United States 9-Supreme Court Judges review my cases and denied a review when Mr.gregory has structural terrors in the ciminal and appellant process

RELIEF SOURELIEF RESQUESTED

Wherefore reasons stated Mr.Gregory requests and prays for the following relief and any other relief that it deems fit.

- (1). Mr.Gregory is clearly entitle to a writ of mandmaus against Chief Judgee Smith and the Judicial review commttie to overturn their orders and remand for a hole new complete review by a hole new Judicial review for investiagtion, justice mandates for this to be transfere to a hole differnt Circuit as it's evident based on the face of the record that Mr.Gregory [can never] (get) a fair and impartial complaint investigation and review in the 8th Circuit.
- (2). In option two : this honorable Court should convert this petition into a writ of habeas courpus and release Mr.Gregory from his unlawfull confinement based on the judicial misconduct that is evident on the record that Cheif Judge Smith, Court Clerk Micheal Gans and other appealllant judges from judge panel 21-3102 conspired to deny Mr. Gregory access to the court to prevent him from ousting and removing a very bias and corrupted judge in his case .  
This goes to the very heart of even Mr.Gregory's sentencing hearging as judge Bough was bias towards Mr.Gregory and the record of 21-1302 is evidence on it's face that he was denied access to the courts.

RESPECTFULLY SUBMITTED

  
BRYAN LEE GREGORY

I Bryan lee Gregory herby do swear under prejury that all facts are true.

"Bryan & Rhonda 4/1/2021"