

24-6860 ORIGINAL

No. _____

Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

In The
Supreme Court of the United States

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Mitchell S. Sanderson,
Petitioner,

v.

Kari Agotness, et al.
Respondent.

----- ♦ -----
On Petition For A Writ Of Certiorari
To The North Dakota Supreme Court

----- ♦ -----
PETITION FOR A WRIT OF CERTIORARI
----- ♦ -----

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(I)

QUESTIONS PRESENTED FOR REVIEW

This case involves Constitutional/Federal questions that must be codified in law by the U.S. Supreme Court that All Courts must follow! The Walsh Court ignored Forgery, ignored Evidence Tampering, rules of court, Judicial Canons, State, Federal and Constitutional law and the Supremacy Clause, the ND Supreme Court did the same. It also ignored U.S. Supreme Court Rulings. The Questions Presented are:

Whether a County District Judge can ignore/violate the Rules of Court?

Whether a County District Judge can ignore/violate Judicial Canons?

Whether a County District Judge can ignore/violate State laws?

Whether a County District Judge can ignore/violate Federal laws?

Whether a County District Judge can ignore/violate Constitutional laws?

Whether a County District Judge can ignore/violate their Oath of Office?

Whether a County District Judge can ignore/violate Due Process?

Whether a County District Judge can ignore/violate the Supremacy Clause?

Whether a County District Judge can ignore/violate Proper Service rules?

Whether a County District Judge can allow a Defendant to file the Summons and Complaint to initiate a case?

Whether a County District Judge can award excessive attorney fees for a simple dismissal without a hearing on the Merits?

Whether a County District Judge can ignore/violate the Oath of Office, Constitution, Federal laws, State law, U.S. Supreme Court case law, Federal appellate court case law, North Dakota Supreme Court case law and have immunity!

A Judge cannot take an Oath to the U.S. Constitution and then violate that Constitution! We are either a Constitutional Republic of laws or we are an Authoritarian police State where the laws only apply to the people and not the Government! The Citizens should be able to bring Criminal charges when the Government fails to do so!

(II)

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

The Petitioner, is Mitchell S. Sanderson.

The Respondent, is Kari Agotness.

Andrew Moraghan: Office of the ND Attorney General.

CORPORATE DISCLOSURE STATEMENT

There is no Corporate disclosure due to Sanderson is a private citizen and Kari Agotness is a State employee.

RELATED PROCEEDINGS/CASES

Sanderson v. Kari Agotness Court case, et al., No. 20240054, Supreme Court of North Dakota, Judgment entered December 19, 2024.

Sanderson v. Kari Agotness, Walsh County District Court case. No. 50-2023-CV-287, Walsh County District Court Northeastern Division of North Dakota, Judgment entered January 30, 2024.

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PETITION FOR WRIT OF CERTIORARI

Mitchell S. Sanderson respectfully petition for a writ of certiorari to review the judgments of the North Dakota Supreme Court and Walsh County District Court in this case.

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OPINIONS BELOW

The North Dakota Supreme Court's (State Court of Appeals) North Dakota Supreme Court, No. 20240054, Opinion (Dec 19, 2024) & North Dakota Supreme Court, No. 20240054, Judgment (Dec. 19, 2024)

Walsh County District Circuit (Judgment) - Walsh County District Court Northeastern Division of North Dakota, No. 50-2023-CV-287. (Jan. 30, 2024)

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JURISDICTION

The opinion and judgment of the North Dakota Supreme Court were entered on December 19, 2024. App. L & M. Pursuant to this Court's Rules 13.1 and 13.3, a petition for certiorari was initially due by March 19, 2025. This petition is timely filed on or before the extended due date. Rules 13.1, 13.3, 13.5.

Petitioner invokes this Court's jurisdiction under 28 U.S.C. §1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Federal and U.S. Supreme Courts have ruled that Proper Service is needed for a court to have jurisdiction. They also have ruled that rules of court must be followed like the 21-day Default rule. That Clerks of Court must have an Oath of Office, That a violation of the Oath of Office by a Judge is treason. That Courts must provide Due Process. That lower courts must follow Constitutional, Federal and State law and the Supremacy Clause of the U.S. Constitution. That the U.S. Constitution is the Supreme law of the land! See the index and case law below!

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INTRODUCTION / STATEMENT OF THE CASE AND FACTS

A. FACTUAL BACKGROUND:

Take Judicial Notice of these facts and laws violated!

Agotness and Knutson are County District Judges! The Districted Court erred, Judge Knutson, by allowing a filing by the State for a Motion to Dismiss when cases are to be heard on the Merits and Judges do not have Absolute Judicial Immunity when they act outside the scope of their authority/jurisdiction or grossly violate the law, Constitution and Due Process!

The District Courts erred in the awarding of attorney fees for a supposed frivolous action in accordance with *N.D.C.C. § 28-26-01*.

Ther District Court, Judge Agotness and Judge Knutson errored in not following *ND Constitution Article VI section 3*: The District Courts failed to address the legitimacy of all motions, violated Constitutional Due Process by denying all Motions, Hearings and a Trial Hearing and charged Sanderson with Attorney fees. Judge Agotness and Judge Knutson also ignored forgery in the case and evidence tampering/Spoliation/obstruction!

Sanderson Motions this Court and brings a legal Federal question and Constitutional challenge that Absolute Judicial Immunity is unconstitutional, a Judge cannot take an Oath to the U.S. and ND Constitution and then give themselves immunity to violate the U.S. Constitution, Federal and State laws.

Sanderson also Motions and brings a legal Federal Constitutional question and challenge to the Constitutionality of the Walsh Clerks of Court having no Oath of Office.

Plaintiff demanded a Jury Trial, see CASE NO. 50-2023-CV-00287 *index # 2* Complaint, guaranteed to the citizens by the *ND Constitution: Article I Section 13*: The right of trial by jury shall be secured to all, and *Article I Section 9*: All courts shall be open, and every man for any injury done him in his lands, goods, person or reputation shall have remedy by due process of law, in this matter and under *ND Rules of Civ. Pro. Rule 38* and under the *U.S. Constitution 7th Amendment* a jury trial is guaranteed for any offence over \$20! Dismissing a case by court procedure is in violation of Due Process.

B. WALSH COUNTY DISTRICT COURT:

Judge Kari Agotness was served on October 30th, 2023, by the Pembina County Sheriff's Department. The State was served on the Attorney General's Office by the Burleigh County Sheriff's Office on November 1, 2023. Sanderson never filed the Summons and Complaint with the Walsh County Clerk of Court. The Defendant filed on November 9th 2023. The Defendant never compelled Sanderson to file the summons and complaint on the Court. The State never provided Notice of Appearance in this case. Also, on November 9th the Defendant filed a Motion to Dismiss CASE No. 50-2023-CV-00287 *see Index #3, #4*. Judge Agotness' s own ruling in *Sanderson v.*

Myrdal clearly states that cases should not be dismissed by default but should be heard on the Merits!

On December 15th Judge Knudson granted the Dismissal see CASE NO. 50-2023-CV-00287 see *index #11*. No hearing or bench trial much less a Jury Trial like Sanderson requested!

There are several legal reasons when a judge does not have immunity such as the Court lacked jurisdiction or failed to provide Sanderson with Due Process. A Plaintiff can request Declaratory and Injunctive relief which are reliefs the Court can grant, and the Judge has no immunity from. Monetary relief is available by Federal law and Federal appellate case law. On January 19 2024 Judge Knutson ordered attorney fees of \$3,213.80 to be paid to the State and Dismissed the case without a jury trial. This court has ruled that no attorney fees can be granted without hearing the case on its merits!

The State requested a Dismissal and attorney fees when they are the sole perpetrators that filed this action upon the court. Cases are supposed to be filed by a Plaintiff with a Summons and Complaint and served upon the Court otherwise the Defendant is acting as the Plaintiff and Defendant when they file!

On December 14th Judge Jay Knutson dismissed the case and found the Complaint frivolous and not in good faith and awarded excessive attorney fees to the Defendant. Sanderson filed nothing with the Court but was ruled frivolous!

Sanderson filed a Motion for Relief from Judgment on 2-1-2024 see *index # 26*, 27, 28. With all the legal issues with this case this Court must address the “corruption” in this North Dakota Court! Sanderson has never received any filings such as *index #51* order granting Motion for extension.

Judge Agotness was being sued due to *case No. 50-2023-CV-00129* which involves a 1st and 14th Amendment allegations. The Senator was served on May 2, 2023, and the service see *index #3, #4*, was done through the USPS under Rule 4(d) through the USPS and is proven by the USPS Inspector General email as an Exhibit to the District Court see index and exhibit from Inspector General filed with the Walsh Court in the Myrdal case! The Service was signed by the Senator’s husband, but he signed/forged the senator’s name! The Walsh Clerk of Court accepted the filing, and the case began. Recusal of Judge Agotness under Rules of court and Judicial Canons is allowed as well as in case law. In a previous case before Judge Agotness, Sanderson asked for a time sensitive injunction ignoring the issue and proceeded to be biased against Sanderson ignoring State law – I continued with this case knowing full well she would be biased. *Article VI Section 11* clearly states that if there is a conflict of interest another judge must be assigned.

In this case *No. 50-2023-CV-00129* the Senator replied with an Answer on June 5, 2023 see *index # 10*. Defendant provided an Answer on 6-12-2023, see *index # 19*, well beyond the 21day deadline by Civil Procedure rules. Motion for Default and a Summary Judgment by Sanderson was denied see *index # 39*.

It was also discovered that the Walsh Clerk of Court has no Oath of Office in violation of Constitutional law and federal and state law and US Supreme Court Case law! Everything the two Walsh Clerks have done is in violation of the ND Constitution and North Dakota Century Code and is Null and Void due to it being in violation of the ND Constitution!

This matter is very clear that both the Defendant and the State have alleged improper Service -See filings in Myrdal case. If so, then this case must be dismissed according to US Supreme Court Case law, Eight Circuit case law and ND Supreme Court case law that the court had no jurisdiction to hear of even rule on any issues. The Clerk of Court should not have accepted the service. The Judge could not rule on or even hear the case much less rule on the case. The Facts are clear that the Plaintiff did not file any frivolous filings and in fact backed all filings up with Exhibits and law and case law to support them. This judge has shown bias against the Plaintiff enforcing Rules on the Plaintiff but not on the Defendant and State. She has ignored Federal & State law; she has ignored US Supreme Court case law bound to the Supremacy Cause. She has retaliated against the Plaintiff by charging attorney fees in violation of the law. She is in violation of the Judicial Cannons and her Oath of Office.

Sanderson has factually stated that Judge Kari Agotness has violated each one of the issues listed in the Complaint and this removes her Judicial Immunity and Judge Knutson ignores all this evidence!

Senator Myrdal made multiple statements in her replies to discovery which were untrue and refused to answer most all the other questions because they would have incriminated her see *index # 63*. Senator Myrdal has perjured herself in her Answer and in many other filings and the Agotness ignored this as well as Judge Knutson. This Court has ruled that failure to adhere to Discovery is grounds for Dismissal.

These violations presented to the court by Sanderson to Judge Knutson are true and Agotness violate everything a judge is NOT to do. See complaint *index # 1*. Yet Judge Knutson as well ignored all these criminal violation of law! Every Motion and Hearing was denied or canceled in case *No. 50-2023-CV-00129* and NO bench Trial was had, see *index # 107, # 140, # 156, # 158, # 160, # 183, # 188*, canceled Trial Hearing 3-19-2024! Judge Knutson did not even rule on Sanderson's right to a Jury Trial!

The Appellant filed a Summons and Complaint on Senator Janne Myrdal, and the Senator did not respond in the allotted time as required by Court Rules of Civil Procedure Rule 55(a) in violation of U.S Supreme Court rulings that if an answer was not timely the court rules must be followed as the written word. Judge Agotness knows full well that personal service must be done on the State as by a third party such as a Sheriff because she never answered when Sanderson first served her through the USPS! Judge Knutson ignored this evidence!

Sanderson as well provided an Order for Dismissal Without Prejudice see *index # 176!* This is in line with ND and U.S. Supreme Court rulings Due to Improper Service!

Judge Agotness violated Rules of Court/Civ. Procedure, Judicial Canons, State law, Federal law, Constitutional law, ND Supreme Court case law, Federal Case law, and U.S. Supreme Court case law. Judge Knutson ignored this evidence as well!

Myrdal did commit evidence tampering and Obstruction and her husband did commit Forgery through the USPS!

A Motion for Relief from judgment is allowed by rules of court! The lower court has a duty to provide relief to the Plaintiff on any good theory. The Motion was denied!

All Motions and Hearing were denied or canceled and no trial was held in violation of Constitutional Due Process when there was ample evidence submitted by Sanderson to support them! Judge Knutson ignored this as well.

Agotness and Knutson violated U.S. Supreme Court rulings on Default Judgment, and Agotness is in violation acting with no Jurisdiction!

Sanderson is demanding his time and costs be awarded to him for having to defend himself against the frivolous claims of the State and the Myrdal. See *Ridge at*

The District Courts erred in the awarding of attorney fees for frivolous action in accordance with *N.D.C.C. § 28-26-01* was not proven by the Judge with findings of facts and conclusions of law.

Ther District Courts errored in not following *ND Constitution Article VI section 3*: The supreme court shall have authority to promulgate rules of procedure, including appellate procedure, to be followed by all the courts of this state. Judge Agotness and Knutson both ignored the ND and US Constitution most importantly the Supremacy Clause!

The District Court failed to address the legitimacy of all Motions, and violated Constitutional Due Process by denying all Motions, Hearings and a Trial Hearing and charged sanderson with Attorney fees. Judge Agotness also ignored forgery in the case and evidence tampering/obstruction as well as Judge Knutson!

Judge Agotness ruled in *Sanderson v. Myrdal* denying Motion for Default sighting *Filler v. Bragg*, 1997 ND 24, ¶ 14, 559 N.W. 2d 225. "*Mindful of North Dakota's strong preference that cases be decided on their merits, this court will exercise its discretion and deny Sanderson's request for an entry of default judgment*". Then she dismisses the case without hearing the case on the Merits. Judge Knutson does the same.

Rule 60(b) governs the trial court's authority to vacate a judgment. (See *Gepner v. Fujicolor Processing* (2001) 637 N.W. 2d 681, 684.) This may be done if there is mistake, inadvertence, or excusable neglect. It can be used to correct errors of law. See *Flaten v. Couture* (2018) 912 N.W. 2nd 330, 338. Yet Agotness and Knutson refused to address the law properly and violated the Supremacy Clause doing so.

There are many errors in law and extreme neglect of the law and case law by Judge Agotness and by Judge Knutson dismissing the case in violation of their Oath.

The Walsh County District Court lacked jurisdiction due to improper service and Judge Knutson failed to provide Sanderson with Due Process. A Plaintiff can request Declaratory and Injunctive relief which are reliefs the Court can grant, and Monetary relief is available by Federal law and Federal case law in a *42 U.S.C. Section 1983* or *18 U.S.C. 241, 242*.

Sanderson Motioned for Relief from Judgment is based on solid legal argument and Judge Agotness and Knutson denied the Motions.

Sanderson believed according to the many Federal court cases and U.S. Supreme Court cases that Government actors could not violate the First and Fourteenth amendment by blocking Sanderson on a Senator's Facebook page if it had the Trappings of a Governmental page/actor and at the time most Federal Court had ruled as such!

The additional violations of law by the Myrdal and the Judges involved in these two cases are still legal arguments needed to be addressed and settled. To say the Plaintiff has failed to state a claim that cannot be granted is utterly false and deceptive. *See Haines v. Kerner*, Pro Se Litigants cannot be dismissed for failure to state a claim which cannot be granted! This court must rule that there are no material facts are in dispute and support it in findings of fact and conclusions of law to allow a Summary Judgment or any Declaratory relief to dismiss this case and to be able to charge Sanderson with attorney fees without ever hearing the case on the Merits.

In **app. A** Judge Knutson dismissed the case on the false premise that Judge Agotness has Absolute Judicial immunity. When Judge Agotness ignored improper

service she was in violation of rules/case law and should have dismissed the case without prejudice. He falsely claims Sanderson asked for a remedy that could not be granted by the court which is in direct violation of U.S. Supreme Court rulings on Pro Se. Litigants. Judge Knutson dismissed the case without any issues being heard on the Merits and the State Immediately filed and dismissed the case with NO hearings! Sanderson's filing was in good faith not frivolous and was supported in a Rule 60 motion for relief from judgment! Sanderson had demanded a Jury Trial which is mandatory in the ND Constitution and available under the US Constitution.

In **app. B**, the Judgment was signed by a Deputy Clerk of Court with NO Oath of Office in violation of ND Constitution, State statutes, ND Supreme Court Rulings and the US Supreme Court has ruled any unconstitutional act is Null and Void! The award of \$3213.80 is also excessive for a case that never seen the inside of a courtroom! This violated the 8th Amendment!

In **app. C**, again attorney fees were awarded when Sanderson has a disability and at times he was bedridden for days and cannot work much less sit and respond to a deadline. Sanderson did not know it was in the mail until the 14 days had passed. It is very unlikely that the County District Judge would have changed his mind given the absolute corruption Sanderson has experienced even if he was able to respond.

In **app. D**, Judge Knutson denied a motion for Relief from Judgment. Knutson did not rule on the Motion until the ND Sup. Co. requested him to do so. Sanderson had to file an appeal with the ND Sup. Co. because the deadline was approaching even though Judge Knutson had not responded to the Motion for Relief. Sanderson

provided ample argument that Judge Agotness violated everything in his Complaint. Knutson also ignored his Oath, the Supremacy Clause and 8th Circuit case law as well as ND Supreme Court Case law in support of Sanderson's filing. Knutson's ruling is complete gobble goop and lies. Knutson ignored a Jury trial demand and dismissed a case to protect a corrupt judge! When a Defendant files a Plaintiff's Summons and Complaint with the court they are acting as the Plaintiff and this cannot happen in law. Judge Knutson even ruled that Sanderson's Motion was not frivolous! In **app G**, is the index of case *No. 50-2023-CV-00129*.

The District Court violated the rules of Civil Procedure and the ND Supreme Court ignored these violations which are sound in U.S. Supreme Court rulings and all judges are bound to follow them. The District Courts, Judge Agotness and Knutson, erred in not following *ND Constitution Article VI section 3*: The supreme court shall have authority to promulgate rules of procedure, including appellate procedure, to be followed by all the courts of this state. This Court has ruled "Courts are supposed to read any rule of civil procedure according to its "plain meaning", just like a statue."

The District Court erred in judgment because documents filed by the Clerk of Court and Deputy Clerk are invalid due to the Clerks not having any Oath of Office!

The District Court and ND Supreme Court failed to address high crimes and misdemeanors and Material Facts and did not address all actions of Sanderson's motion's including Forgery 18 U.S.C § 471, 8 U.S.C 1324(c). Evidence Tampering/Spoilation/Obstruction.

NORTH DAKOTA SUPREME COURT:

The ND Supreme Court ignored all violations of law in this case ignored their own rulings and Oath of Office and the Supremacy Clause and other high crimes.

In **app. E**, the ND Supreme Court errors by stating Sanderson did not prove improper service and that Judge Agotness has immunity which is in violation of ND Supreme Court rulings on Service and U.S. Supreme Court rulings on service and Jurisdiction! The Court ruled Sanderson filed frivolous actions – which Sanderson clearly did not and supported it in Motion for Relief from Judgment. The Court also ignored forgery and Evidence Tampering that were clearly supported in exhibits in *case No. 50-2023-CV-00129*.

In **app. F**, the Court Corruptly ruled against Sanderson ignoring all the crimes committed by Judge Agotness and Judge Knutson. In **app. H**, is the index of *case No. 50-2023-CV-287* (ND Sup. Co. No. 20240054)

Myrdal Answering Sanderson's Complaint after 21 days does not negate U.S. Supreme Court case law that Proper Service must be done before the Lower Court could exercise Jurisdiction. The U.S. Postal Service Inspector General's email is evidence that service was done by US Mail in violation of Court Rules instead of by a Third Party. The N.D. Supreme Court is in violation of its own rulings on Proper Service as well as U.S. Supreme Court rulings. Both the Defendant and the Plaintiff agreed in filings to the lower court that improper service was done. The Eight Circuit has ruled "Where there is absence of proof of jurisdiction, all administrative and judicial proceedings are a nullity, and confer no right, offer no protection, and afford

no justification, and may be rejected upon direct collateral attack." *Thompson v Tolmie*, 2 Pet. 157, 7 L. Ed. 381; and *Griffith v. Frazier*, 8 Cr. 9, 3 L. Ed. 471. "the burden of proving jurisdiction rests upon the party asserting it." *Bindell v. City of Harvey*, 212 Ill.App.3d 1042, 571 N.E.2d 1017 (1st Dist. 1991).

The ND Supreme Court violated their Oath Office, violated the Supremacy Clause of the U.S. Constitution which they are bound to uphold. Ignored Oath and violations of ND Constitution. It violated 8th Circuit and U.S. Supreme Court rulings. It also violated/ignored many Federal and State laws. Any judge or officer of the government who does not comply with his Oath to the Constitution of the United States wars against that Constitution and engages in acts in violation of the supreme law of the land. The judge is engaged in acts of treason." *Cooper v. Aaron*, 358 U.S. 1,78 S. Ct. 1401 (1958). *Article VI, Clause 2 US Constitution*: This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby,.

The ND Supreme Court erred by dismissing the case with prejudice due to lack of jurisdiction by the Court and improper service by Sanderson. The Court never addressed jurisdiction as stated in; *Hagans v. Levine*, 415 U.S. 533, n.3. "once jurisdiction is challenged, it must be proved".

The U.S. Supreme Court has ruled that Pro Se Litigants are not to be held to the same standard as a learned attorney but Courts are bound to the rules and the law! Due Process Provides the “rights of Pro Se Litigants are to be construed liberally and held to less stringent standard as stated in *Haines v Kerner*, 404 U.S. 519-520 (1972) and *Hughes v Rowe*, 449 U.S. 4, 9-10 (1980). It also ruled that a Pro Se litigants case cannot be dismissed for failure to state a claim which the court cannot grant – but Sanderson’s claims were all credible and not frivolous.

The ND Supreme Court abused its discretion and violated Mr. Sanderson’s due process rights!

LAW AND ARGUMENT

The District Court and ND Supreme Court erred by granting judicial immunity to Judge Agotness, when she lacked jurisdiction due to improper Service and Violations of Law!:

It was important that Fitzgerald sued for damages as qualified immunity is unavailable as a defense against claims for injunctive relief. *See, e.g., Pearson v. Callahan*, 555 U.S. 223, 242–43 (2009). The doctrine of qualified immunity shields officials from civil liability so long as their conduct “‘does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.’” *Pearson v. Callahan*, 555 U. S. 223, 231 (2009) (*quoting Harlow v. Fitzgerald*, 457 U. S. 800, 818 (1982)).

In *Ex Parte Young*, the Supreme Court held that a private litigant can bring suit against a state officer for prospective injunctive relief in order to end “a continuing violation of federal law.” A state official who enforces “an unconstitutional legislative enactment . . . comes into conflict with the superior authority of the Constitution,’ and therefore is ‘stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct. The State has no power to impart to him any immunity from responsibility to the supreme authority of the United States.

Absolute immunity, without reasonable limits, allows judges and their decisions to be elevated above the Constitution. This would void a Constitutional government and allow for a dictatorship (government without the people’s consent). Sanderson asked for Declaratory and Injunctive relief which the Judge does not have immunity from. Federal Appellate cases show judges can be sued for monetary damages.

Moreover, “the court is under a duty to examine the complaint to determine if the allegations provide for relief on any possible theory”. *bonner v. Circuit court of St. Louis*, 526 F.2d 1331, 1334 (8th Cir. 1975). Here the 8th clearly states that the court should have looked at any possible relief.

In *Harris v. Harvey*, 605 F.2d 330 (7th Cir. 1979), cert. denied, 445 U.S. 938, 100 S. Ct. 1331, 63 L.Ed.2d 772 (1980), a jury assessed \$200,000 in punitive damages against a county judge who had seriously abused his judicial power. Here the defendant was acting under color of law, and the jury found that his racially

motivated actions had injured plaintiff. Such a claim is clearly within the purview of Section 1983. *Chase v. McMasters*, 573 F.2d 1011, 1019 n. 8, 1019-1020 (8th Cir. 1978); *Floyd v. Trice*, 490 F.2d 1154 (8th Cir. 1974). We also agree that nonetheless Judge Harvey was acting under color of law by using the power and prestige of his state office to damage the plaintiff, the court did not find the punitive damages award to be excessive or shocking to the judicial conscience since there had been "a serious abuse of judicial power" by defendant (App. 35-36). In view of the jury's finding that defendant had acted "maliciously, wantonly or oppressively," we may not disturb its award of punitive damages. In this Federal case it is clear judges can be held accountable under the Color of Law!

*When a judge knows that he lacks jurisdiction, or acts in the face of clearly valid suature expressly depriving him of jurisdiction, judicial immunity is lost. Rankin v. Howard, (1980) 633 F.2d 844, cert den. Sells v. Rankin, 101 S. Ct. 2020, 451 U.S. 939, 68 L.Ed 2d 326. Agotness has NO immunity because she was acting with NO jurisdiction due to improper service by Sanderson. Both these Judges violated this ruling! When the judge acts as a trespasser of the law, when a judge does not follow the law, the judge loses, subject matter jurisdiction, and the judge's orders are void, of no legal force or effect. The US Supreme Court, in. *Scheur v. Rhodes* 416 U.S. 232, 94 as. act. 1683, 1687, (1974) stated that "when a state officer acts under a state law, in a manner violative of the federal Constitution, he "comes into conflict with the superior authority of that constitution, and he is in that case, stripped of his official or represented character and his subject and his person to the consequences of his*

individual conduct. The state has no power to impart to him any immunity from responsibility to the supreme authority of the United States". By law, a judge is a state officer. The judge didn't act not as a judge, but as a private individual. All Judges should have followed this case but were more interested in retaliating against Sanderson and protecting corruption in the government!

Article VI, Clause 2 US Constitution: This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding. All Judges violated everything a judge has sworn to protect!

U.S. v. Throckmorton, 98 US 61 officials and even judges have no immunity See, Owen vs. City of Independence, 100 S Ct. 1398; Maine vs. Thiboutot, 100 S. Ct. 2502; and Hafer vs. Melo, 502 U.S. 21; officials and judges are deemed to know the law and sworn to uphold the law; officials and judges cannot claim to act in good faith in willful deprivation of law, they certainly cannot plead ignorance of the law,... the courts have ruled there is no such thing as ignorance of the law Cooper v. Aaron, 358 U.S. 1, 78 S. Ct. 1401 (1958). "No state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it. See Dennis v. Sparks, 449 U.S. 24, 31 (1980) Judges are subject to criminal prosecutions as are other citizens.

Floyd v. Barker, the Supreme Court has held that judges lack immunity from prosecution for violating constitutional rights under 18 U.S.C. § 242 because Congress acted to proscribe criminal conduct by judges in the *Civil Rights Act of 1866*. 18 USC 242 - *Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States,...* See *Palmer v. Hall*, 517 F. 2nd 705 (5th Cir. 1975); *Aldridge v. Mullins*, 474 F. 2nd 1189 (6th Cir. 1973); *McDaniel v. Carroll*, 457 F. 2nd 968 (6th Cir. (1972).

"The right of action created by statute relating to deprivation under color of law, of a right secured by the constitution and the laws of the United States and comes claims which are based solely on statutory violations of Federal Law and applied to the claim that claimants had been deprived of their rights, in some capacity, to which they were entitled." -- *Owen v. Independence* 100 Vol. Supreme Court Reports. 1398:(1982); *Main v. Thiboutot* 100 Vol. Supreme Court Reports 2502:(1982). Title 18 US Code Sec. 241 & Sec. 242. Title 42 US Code Sec. 1983, Sec. 1985, & Sec.1986 clearly established the right to sue anyone who violates your constitutional rights. 42 USC 1983 - *Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law,*

suit in equity, or other proper proceeding for redress,. Judges cannot have immunity when rights are violated and any such case law in opposition to *1983* and *242* would be in violation of Federal law. Courts must interpret law as the clearly written word!

42 U.S.C. § 1985(3), a federal law that dates to the Reconstruction era, prohibits private and governmental actors from working together to violate the constitutional rights of Americans...*Section 1983* provides a remedy against any person who, under color of state law, deprives another of rights protected by the Constitution and laws of the United States. *Dossett v. First State Bank*, 399 F.3d 940, 947 (8th Cir. 2005) (*quoting Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 931 (1982)); *see also*

The District Court and ND Supreme Court abused its discretion and violated Mr. Sanderson's due process rights: Judge Agotness violated the *U.S. Const. Amend XIV* rights by denying all requests for hearings: Violations of Constitutional rights, by violating court rules, law and case law and having no jurisdiction. The *Fifth Amendment* guarantees every citizen the right to due process. The following case law supports Sanderson's allegations! *See: Article VI, Clause 2 US Constitution*.

Whenever a Judge, acts where he does not have jurisdiction to act, the judge is engaged in an act of treason. See *S. v. Will*, U.S. 200, 216, 101 S. Ct. 471, 66 L. Ed. 2d. 392, 406 (1980). *United States v. Real Props.*, 750 F. 3d 968, 972 8th Cir. (2014). All Judges simply did not care to look at the law and evidence!

Recusal is required when, objectively speaking, the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable.” *Id.* at 907 (*quoting Aetna Life Ins. Co. v. LaVoie*, 475 U.S. 813, 825 (1986); *Withrow v. Larkin*, 421 U.S. 35, 47 (1975)). Bias or prejudice of an appellate judge can also deprive a litigant of due process. *Aetna Life Ins. Co. v. LaVoie*, 475 U.S. 813 (1986) (failure of state supreme court judge with pecuniary interest—a pending suit on an indistinguishable claim—to recuse). Judge Knutson should have agreed that Judge Agotness should have recused herself.

The Court also overlooked the defendant admitted being untimely with their Answer which was substantial prejudice to Mr. Sanderson when his procedural due process was denied when the defendant was allowed to proceed as if they were not untimely with their Answer *See Davis v. Alaska* 415 U.S. 308 (1974).

This would not be in the public interest when it is not constitutional. "Due process balances the power of the land and protects the individual person from it. When a government harms a person without following the exact course of the law, this constitutes a due process violation, which offends against the rule of law," See Carroll v. Greenwich Co., 199 U.S. 401, 410 (1905) See also French v. Barber Asphalt Paving Co., 181 U.S. 328 (1901).

Judge Agotness violated the Constitutional Due Process at every turn violating Sanderson’s Constitutional Rights and Judge Knutson and ND Sup. Co.!

Rule 12 (a) Time to serve a responsive pleading. (1) In General. Unless another time is specified by this rule or a statute, the time for serving a responsive pleading

is: (A) a defendant must serve an answer within 21 days after being served with the summons and complaint; Definition of Default: A default in a legal action occurs when a defendant fails to plead, appear or otherwise defend within the time allowed. DEFAULT Definition & Legal Meaning Definition & Citations: The omission or failure to fulfill a duty, observe a promise, discharge an obligation, or perform an agreement. *State v. Moores*, 52 Neb. 770, 73 N. W. 299; *Osborn v. Rogers*, 49 Hun, 245, 1 N. Y. Supp. 623; *Mason v. Aldrich*, 36 Minn. 283, 30 N. W. 554. In practice. Omission; neglect or failure. When a defendant in an action at law omits to plead within the time allowed him for that purpose, or fails to appear on the trial, he is said to make default, and the judgment entered in the former case is technically called a “judgment by default” 3 Bl.

Pleading deadlines must be strictly adhered to, otherwise the party who follows the timeline will be unfairly prejudiced by the party that did not follow the rules See *Brookhart v. Jams*, 384 U.S. Also See *Smith v. Illinois*, 390 U.S. 129, 131 (1968).

Everything Judge Agotness has done was in error of law as supported in this Brief and the entire *Sanderson v. Myrdal* case and all Judges ignored it!

The District Court “Judge Agotness and Judge Knutson” violated the rules of Civil Procedure: The following case law supports Sanderson’s claims: *N.D.C.C. § 01-02-02* states: *Words used in any statute are to be understood in their ordinary sense, unless a contrary intention plainly appears, but any words explained in this code are to be understood as thus explained.* The Supreme Court of the State of North Dakota has affirmed these words in *State of North Dakota v. Castleman*,

2022 ND 7969 ¶9 N.W.2d 169. *Stephenson v. Hoven*, 2007 ND 136737 ¶14 N.W.2d 260: "we construe statutes as a whole to give meaning, if possible, to every word, phrase, and sentence" In the ordinary sense and considering the statutes and case law, no sane, logical person would.

The ND statute requires the defendant "must serve an Answer within 21 days after being served. Pleading deadlines must be strictly adhered to, otherwise the party who follows the timeline will be unfairly prejudiced by the party that did not follow the rules *See Brookhart v. Jams*, 384 U.S. Also *See Smith v. Illinois*, 390 U.S. 129, 131 (1968).

Sanderson should have received a ruling in his favor on all Motions under *N.D. R. Civ. P. 52(a)(1)* because this was a non-jury trial. The Court never made a finding of fact or conclusion of law on any Motion!

The State never filed an Answer in this case. The Walsh Clerk has clearly informed me that she cannot give me a case number until I fill the summons and complaint with the court and I must serve a Notice of the case number with the Defendant: Judge Agotness violated the *U.S. Const. Amend XIV* rights by denying all requests for hearings: Violations of Constitutional rights, by violating court rules, law and case law and having no jurisdiction. *See: Article VI, Clause 2 US Constitution;*

It is also firmly established that valid service of process is necessary in order to assert personal jurisdiction over a defendant. *Sieg v. Karnes*, 693 F.2d 803, 807 (8th Cir. 1982); Farrington, *supra*. "*Rule 4* deals extensively with service of original process, which is the means of securing jurisdiction by the court over the defendant's

person or over the res. Without jurisdiction over the person or the res, the court cannot render a valid judgment, even if it has subject-matter jurisdiction." 2 J. *Moore and J. Lucas, Moore's Federal Practice*, ¶ 4.02[3], at p. 4-66 (2d ed. 1991)... *ND R. Civ. P 12(b)(iv)* authorizes a motion to dismiss for insufficiency of service of process. All Judges ignored this legal standard!

The reasons for granting the petition is "courts are supposed to read any rule of civil procedure according to it "plain meaning", just like a statue." *See Bus. Guides, Inc. v. Chromatic Commc'ns Enters. Inc.*, 498 U.S. 533, 533, 540 (1991). When the Court ignores Federal/state *Law Rule 12*, it violates Mr. Sanderson's due process when he would not be afforded fair treatment. Mr. Sanderson did not get equal protection of the law under the Fourteenth Amendment United States Constitution when Federal Law is not followed as did in this case. Mr. Sanderson's case falls in the "public interest doctrine" when the Court did not follow Rules of Civil Procedure it violated procedure due process.

42 U.S.C. § 1985(3), prohibits private and governmental actors from working together to violate the constitutional rights of Americans...*Section 1983* provides a remedy against any person who, under color of state law, deprives another of rights protected by the Constitution and laws of the *United States. Dossett v. First State Bank*, 399 F.3d 940, 947 (8th Cir. 2005) (quoting *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 931 (1982)); The attorneys, ND AG's office and Judges have conspired to violate Sanderson's rights and to violate court rules and the law!

The Walsh Judge Agotness had no jurisdiction: Judge Agtoness could not take this case due to improper service on a State Government actor thru the USPS which is in violation of Civ. Pro. with no service there is no jurisdiction! All Judges ignored this evidence.

Service of summons is the procedure by which a court. . asserts jurisdiction over the person of the party served, *See Murphy Brothers, Inc., Petitioner v. Michetti Pipes Stringing, Inc.*, Case No. 97-1909, U.S. (1999). When the defendant was untimely with their Answer the District Court could no longer assert jurisdiction over them under *Rule Civ. Proc. 12(a)(1)(A)*. The Court overlooked the fact that after the defendant was untimely on its Answer, Myrdal was allowed to file motions to the District Court that the court lacked jurisdiction to hear and allowed the filings, *See Main v. Thiboutot*, 100 S. Ct 2502 U.S. (1980). This statute requires the defendant "must serve an Answer within 21 days after being served, *See Bus. Guides, Inc. Chromatic Commc'ns Enters, Inc.*, 498 U.S. 533. 540 (1981). Pleading deadlines must be strictly adhered to, otherwise the party who follows the timeline will be unfairly prejudiced by the party that did not follow the rules *See Brookhart v. Jams*, 384 U.S. Also *See Smith v. Illinois*, 390 U.S. 129, 131 (1968).

An elementary principle for rendition of a valid judgment is that the district court have both subject matter jurisdiction over the cause of action and personal jurisdiction over the parties. *Sieg v. Karnes*, 693 F.2d 803, 807 (8th Cir. 1982). When service was improper and absent personal jurisdiction, the court is powerless to do anything beyond dismissing without prejudice.

The N.D. Supreme Court did not follow its own rulings In the N.D. case *Franciere v. City of Mandan*, 2019 ND 233 ¶ 2-6, 932 N.W. 2d 907; An elementary principle for rendition of a valid judgment is that the district court have both subject matter jurisdiction over the cause of action and personal jurisdiction over the parties. See, e.g., *Smith v. City of Grand Forks*, 478 N.W.2d 370, 371 (N.D. 1991). "A party must strictly comply with the specific requirements for service of process." *Sanderson v. Walsh County*, 2006 ND 83, ¶ 13, 712 N.W.2d 842. "Absent valid service of process, even actual knowledge of the existence of a lawsuit is insufficient to effectuate personal jurisdiction over a defendant." *Id.*; see also *Riemers v. State*, 2006 ND 162, ¶ 7, 718 N.W.2d 566. In *Riemers v. State*, 2006 ND 162, 718 N.W.2d 566, Riemers attempted to commence the action by serving process via certified mail with return receipt. The district court issued an order granting the dismissal for insufficient service of process. *Riemers* appealed, arguing he served the process in accordance with the Rules of Civil Procedure. This Court held service was improper and "[a]bsent personal jurisdiction, 'the court is powerless to do anything beyond dismissing without prejudice.'" *Id.* at ¶ 10. The Court stated, "Therefore, while the district court correctly dismissed the action, it erred doing so with prejudice." *Id.* Like *Riemers*, this case was correctly dismissed, but the district court erred in doing so with prejudice. We affirm dismissal for lack of personal jurisdiction 256*256 as modified to dismiss without prejudice. herefore, the district court had no legal authority to determine anything other than the jurisdiction

question. *Smith*, 478 N.W.2d 370, 371, 373 (N.D. 1991); see *King v. Menz*, 75 N.W.2d 516, 521 (N.D. 1956) ("There being no service on the defendant the trial court had no jurisdiction to make any order in regard to the issue raised by the complaint."). Until jurisdiction is decided, the court can only determine issues regarding jurisdiction. We affirm the judgment granting dismissal based on lack of personal jurisdiction due to insufficient service as modified to dismiss without prejudice.

Sanderson provided exhibits with all Motions and filings and supported them with law and case law and Judge Agotness ignored them all making horrific violations of law and discretion. All ignored these violations!

However, while our rules do provide for a motion to reconsider, where appropriate, we have treated such motion as motions to alter or amend the judgement N.D.R. Civ. P. 59(j), which may be reversed if the district court misinterpreted or misapplied the law. See *Langer v. Pender* (2009) 764 N.W. 2d 159, 163.

Jurisdiction is power to declare the law and when it ceases to exist, the only function to the court is that of announcing the fact and dismissing the cause; *Steele Co. v. Citizens for Better Environment*, 523, U.S. 83, 94 (1998).

The District Court and ND Supreme Court erred in not deciding the case on its Merits and the awarding of excessive attorney fees for a nonfrivolous action in accordance with N.D.C.C. § 28-26-01 and ND R. Civ P. 54(e)(ii). And the 8th Amendment: Sanderson filed nothing frivolous and supported all filings with evidence and law. The District Court should have denied the defendant's motion for attorney fees and stated, "if the district court lacked

"A court lacks discretion to consider the merits of a case over which it is without jurisdiction and thus, by definition, a jurisdictional ruling may never be made prospective only. We therefore hold that, because the Court was without jurisdiction to hear the case, it was without authority to decide the merits." See Firestone Tire & Rubber Co. v. Risjord, 449 U.S. 368 (1981)."

The District Court "Judge Agotness" violated the rules of Civil Procedure and Judge Knutson and ND Supreme Court did as well dismissing this case: *Franciere v. City of Mandan, 2019 ND 233, ¶¶ 2-6, 932 N.W.2d 907*. *The evidence is uncontested that Franciere mailed the summons and complaint by certified mail ... "delivery" under N.D.R.Civ.P. 4(d)(2)(E) does not include mailing, even by certified mail... Until jurisdiction is decided, the court can only determine issues regarding jurisdiction. We affirm the judgment granting dismissal based on lack of personal jurisdiction due to insufficient service as modified to dismiss without prejudice. In Sanderson's case service should have been Personal Service under Rule 4(d)(2)(F)(i)! Judge Agotness, Judge Knutson and the ND Supreme Court ignored the ND Supreme Court rulings!*

This statute requires the defendant "must serve an Answer within 21 days after being served," See Bus. Guides, Inc. Chromatic Commc'ns Enters, Inc., 498 U.S. 533. 540 (1981). Pleading deadlines must be strictly adhered to, otherwise the party who follows the timeline will be unfairly prejudiced by the party that did not follow the rules See Brookhart v. Jams, 384 U.S. Also See Smith v. Illinois, 390 U.S. 129, 131 (1968).

"courts are supposed to read any rule of civil procedure according to it 'plain meaning', just like a statue." See *Bus. Guides, Inc. v. Chromatic Commc'ns Enters. Inc.*, 498 U.S. 533, 533, 540 (1991). All judges involved in this case ignored and violated U.S. Supreme Court Case law !

*To survive a motion to dismiss under Rule 12(b)(6), a complaint must contain sufficient factual matter, accepted as true, to state a claim for relief that is plausible on its face. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). All Judges ignored the facts Sanderson presented and the law and case law!*

The District Courts and ND Supreme Court erred in judgment due to documents filed by the Clerk of Court and Deputy Clerk are invalid due to the Clerk not having any Oath of Office: *In the State of ND v. Stuart*, the ND Sup. Co. Justices clearly state that state law requires that District clerks have an oath. *Article XI ND Constitution Section 4, Article VI of the US Constitution, NDCC 44-01-05, NDCC 44-01-05.1, 18 U.S.C. 1918* provides penalties for violation of oath office described in *5 U.S.C. 7311 (2)* which include: removal from office *Frothingham v. Mellon*, 262 U.S. 447 (1923), "Jurisdiction can be challenged at any time." *Basso v. Utah Power & Light Co.*, 495 F 2nd 906 at 910.

Precedence clearly shows that the use of the word "shall" in a statute creates a mandatory duty. See e.g., *Appalachian Voices v. McCarthy*, 989 F. Supp. 2d 30, 54 (D.D.C. 2013); See also *Kingdomware Techs., Inc. v. United States*, 579 U.S. 162, 171–72, 136 S. Ct. 1969, 1977, 195 L. Ed. 2d 334 (2016) ("Unlike the word 'may', which

implies discretion, the word “shall” usually connotes a requirement. Compare *Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 35, 118 S. Ct. 956, 140 L.Ed.2d 62 (1998) (recognizing that “shall” is ‘mandatory’ and normally creates an obligation impervious to judicial discretion.”) The ND Constitution and State Code demand Clerk of Court have an Oath and so does ND Supreme Court Rulings.

As *Marbury v. Madison* the court clearly states that an Unconstitutional act is unenforceable. Since a Clerk needs an Oath according to the *ND and US Constitution* this case and all its filings and Rulings are null and void and any other case she was involved in as Clerk! In *Ex parte Garland*, 71 U.S. (4 Wall.) 333, 337 (1867) "Any person who shall falsely take the said oath shall be guilty of perjury; and shall be deprived of his office, and rendered incapable forever after of holding any office or place under the United States.

NDCC 44-01-05. Oath of civil officers. Each civil officer in this state before entering upon the duties of that individual's office shall take and subscribe the oath prescribed in *section 4 of article XI of the Constitution* of North Dakota. The oath must be endorsed upon the back of, or attached to, the commission, appointment, or certificate of election. The term civil officer includes every elected official and any individual appointed by such elected official; ...For purposes of this chapter and chapter 44-05, the term civil officer has the same meaning as public officer.

NDCC 44-01-05.1. Failure to file oath. The appointment of any civil officer may be rescinded by the appointing authority if the appointed civil officer fails to file an oath of office at the place of filing required by *section 44-05-04*.

Article XI ND Constitution Section 4. Members of the legislative assembly and the executive and judicial branches, ..., before they enter on the duties of their respective offices, shall take and subscribe the following oath or affirmation:

The Clerks have admitted they do not possess the requisite Oath and affidavit and that they do not need one!

As Marbury v. Madison states that an Unconstitutional act is unenforceable. Since a Clerk needs an Oath according to the ND and US Constitution this case and all its filings and Rulings are null and void and any other case she was involved in as Clerk! Judge Agotness and Knutson should have granted the Motion for Relief from Judgment! All legal arguments in this Motion are true and accurate, demanding relief from the ND Supreme Court rulings.

The State failed to file a notice of appearance in Judge Agotness case!

The State did not compel Plaintiff to file Summons and Complaint as in court *Rules of Civ. Pro. 5(d)(2)(A)(iii)*.

The defendant did not file a Notice of Case Number with Plaintiff! The Walsh clerk always told me I must file a notice of case number with the Defendant when the Court generates it. This is in emails from Clerk!

Sanderson has the constitutional right to redress the government.

Sanderson has a Constitutional right of a Private Right of Action: The Supreme Court has established “an implied private right of action” under *Title VI*, leaving it “beyond dispute that private individuals may sue” to address allegations of intentional discrimination. *Barnes v. Gorman*, 536 U.S. 181, 185 (2002) (quoting

Alexander v. Sandoval, 532 U.S. 275, 280 (2001)). The Court previously has stated that it had “no doubt that Congress ... understood *Title VI* as authorizing an implied private cause of action for victims of illegal discrimination.” *Cannon v. Univ. of Chicago*, 441 U.S. 677, 703 (1979).

Abuse of Process, discretion and retaliation and bias with prejudice towards Plaintiff. Any competent Judge can clearly see that Judge Agotness and Knutson and the ND Supreme Court were biased and retaliated against Sanderson! They ruled against Sanderson at all turns and violated everything a judge is to uphold!

In, *United States v. Real Props. Located at 7215 Longboat Drive 9Lot 24*), 750 F. 3d 968, 972 (8th Cir. 2014). See also *Koon v. United States*, 518 U.S. 81, 100 (1996) (“A district court by definition abuses its discretion when it makes an error of law.”)

To survive a motion to dismiss under Rule 12(b)(6), a complaint must contain sufficient factual matter, accepted as true, to state a claim for relief that is plausible on its face. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). The Defendants lied at all turns but Sanderson was true! Judge Agotness, Knutson and the ND Supreme Court ignored exhibits supporting Sanderson’s allegations and ignored many violations made by Myrdal.

28 U.S.C 144 if a judge has a personal bias or prejudice that judge shall precede no more. *28 U. S. C. §455(a)* (“Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might

reasonably be questioned"). a judge should be disqualified only if it appears that he or she harbors an aversion, hostility or disposition of a kind that a fair-minded person could not set aside when judging the dispute").

Waller v. Georgia, 467 U.S. 39, 48 (1984). "Trial courts are strictly required to make findings before a trial closure, and failure to make each of the findings requires reversal." No findings of Fact and Conclusion of law were made by any Judge!

Evidence Tampering / Spoliation / Obstruction / Forgery: *In Martin v. DaimlerChrysler Corp.*, 251 F.3d 691, 693 (8th Cir. 2001) (dismissing a complaint where plaintiff lied to conceal the existence of evidence); *Everyday Learning Corp. v. Larson*, 242 F.3d 815 (8th Cir. 2001) (employing dismissal as a sanction for spoliation). To purge damaging information on social media would, if relevant, likely constitute spoliation. Title 18 of United States Code Sections 1503, 1510, 1512 and 1519. *Fines v. Ressler Enterprises, Inc.* IN THE SUPREME COURT STATE OF NORTH DAKOTA 2012 ND 175...When litigation is reasonably foreseeable, there is a duty to preserve evidence. *See Bachmeier v. Wallwork Truck Ctrs.*, 507 N.W.2d 527, 532 (N.D. 1993) (*Bachmeier I*) (stating sanctions may be appropriate for the destruction of evidence relevant to a lawsuit).

At a minimum, if you have been found to have destroyed evidence, the judge may draw or the jury may be told it can draw an inference that the materials you destroyed were harmful to your case. Courts can also impose monetary sanctions and exclude evidence and witness testimony as a result of misconduct. In extreme circumstances, if a court finds clear and convincing evidence that you have

intentionally concealed or destroyed evidence, your case could be dismissed (if you are the plaintiff), or you could be found summarily liable without a trial (if you are the defendant). See *Martin v. DaimlerChrysler Corp.*, 251 F.3d 691, 693 (8th Cir. 2001) (dismissing a complaint where plaintiff lied to conceal the existence of evidence); *Everyday Learning Corp. v. Larson*, 242 F.3d 815 (8th Cir. 2001) (employing dismissal as a sanction for spoliation).

In *Chapter 73 of Title 18 of the United States Code*. This chapter contains provisions covering various specific crimes such as witness tampering and retaliation, jury tampering, destruction of evidence.

NDCC 12.1-08-01. Physical obstruction of government function. 1. A person is guilty of a class A misdemeanor if he intentionally obstructs, impairs, impedes, hinders, prevents, or perverts the administration of law or other governmental function.

All judges involved in this case ignored Evidence Tampering that was clearly supported in Exhibits.

Spoliation sanctions are typically imposed where one party gains an evidentiary advantage over the opposing party by failing to preserve evidence. This is true where the spoliator knew or should have known that the evidence should be preserved for pending or future litigation; the intent of the spoliator is irrelevant. *Foust v. McFarland*, 698 N.W.2d 24 (Minn. Ct. App. 2005). *Federated Mut. Ins. Co. v. Litchfield Precision Components, Inc.*, 456 N.W.2d 434, 437 (Minn.1990). Spoliation sanctions are typically imposed where one party gains an evidentiary advantage over

the opposing party by failing to preserve evidence. See *Himes v. Woodings-Verona Tool Works, Inc.*, 565 N.W.2d 469, 471 (Minn.App.1997), review denied (Minn. Aug. 26, 1997).

To purge damaging information on social media would, if relevant, likely constitute spoliation. See Scott v. Garfield, 454 Mass. 790, 798 (2009). Judge Agotness, Knutson and the ND Supreme Court ignored this violation!

NDCC 12.1-09-03. Tampering with physical evidence. 1. A person is guilty of an offense if, ...he alters, destroys, mutilates, conceals, or removes a record, document, or thing with intent to impair its verity or availability in such official proceeding or for the purposes of such process, demand, or order.

Fines v. Ressler Enterprises, Inc. IN THE SUPREME COURT STATE OF NORTH DAKOTA 2012 ND 175, there is a duty to preserve evidence. See Bachmeier v. Wallwork Truck Ctrs., 507 N.W.2d 527, 532 (N.D. 1993) (*Bachmeier I*) (*stating sanctions may be appropriate for the destruction of evidence relevant to a lawsuit. The ND Supreme Court ignored their own rulings to protect a government actor and retaliated against Sanderson!*

NDCC 12.1-24-01. Forgery or counterfeiting. 1. A person is guilty of forgery or counterfeiting if, ... a. Knowingly and falsely makes, completes, or alters any writing; or b. Knowingly utters or possesses a forged or counterfeited writing. Also see 8 U.S. Code § 1324(c). See USPS Inspector General email in Myrdal case for evidence of forgery. All judges ignored Mark Myrdal forging Janne Myrdal's name on a USPS sign return receipt! All judges errored violations of Federal and State law by not

addressing the Forgery that was committed by Myrdal's husband signing and printing Janne Myrdal on the signed return receipt through the USPS. It is clear from the USPS Inspector General email listed in the Myrdal case as an exhibit that Senator Myrdal's husband forged the Senators name on the signed return receipt when served the Summons and Complaint. *18 U.S.C § 471, 8 U.S.C 1324(c)*. See exhibits in *Sanderson v. Myrdal*.

Under *N.D.R.Civ.P. 8(b)(6)* an allegation is admitted if it is not denied where a responsive pleading is required. Myrdal and Judge Agotness never denied the evidence tampering and forgery allegations!

Waller v. Georgia, 467 U.S. 39, 48 (1984). "*Trial courts are strictly required to make findings before a trial closure, and failure to make each of the findings requires reversal.*" This was not done by any Judge involved in this entire case!

REASONS FOR GRANTING THE PETITION

This Case Is The Ideal Vehicle For Review! Sanderson has shown why Judge Agotness and Knutson should have not dismissed the case with prejudice and why the North Dakota Supreme Court should have overturned the lower court's rulings.

Judge Agotness, Judge Knutson and the North Dakota Supreme Court ignored U.S. Supreme court rulings, Constitutional law, Oath of office, the Supremacy Clause, Due Process, and Federal law! The lower courts as well did the same in addition to ignoring ND Supreme Court rulings, ND Constitution and ND Case law! The District Court erred by dismissing the case with prejudice due to lack of jurisdiction and improper service. See Register of Actions in Myrdal case *Docket Index 1 thru 218*. Case dates 5-19-2023 thru 3-19-2024. See Service Document *Index #3 Affidavit in Myrdal case*.

Improper service was done by Sanderson on a State Actor! The Court had NO jurisdiction! Service by Mail see *Index #4 Return Receipt for Certified Mail*, See *Index # 80 Exhibit # U Certified Return Receipt Card*.

The District Courts abused their discretion and violated Mr. Sanderson's due process rights, and Violations of Constitutional rights by denying all requests for hearings, denying all Motions, denying a trial hearing, violating court rules, law and case law. It is a clear example of Judicial Corruption which is prohibited by law!

The District Courts and North Dakota Supreme Court failed to address all actions including high crimes and misdemeanors and did not address all actions of

Sanderson's motion's including Forgery, Evidence Tampering/Obstruction: See USPS Inspector General email Index # 112 Exhibit # T Return Receipt. See 8-2-2023 Index #72 Exhibit S in Myrdal case.

It is for the foregoing reasons, Mitchell S. Sanderson requests that this Court REVERSE the District Court's and ND Supreme Court rulings to Dismiss because there was no factual findings of Facts and Conclusions of law based in law following the U.S. Supreme Court and ND Supreme Court that a judge acting without Jurisdiction due to improper service, cannot hear or rule on any case and that case is Null and Void! That this Court order the award of attorney fees to the State Attorney General's Office be REVERSED and nullified and let the case proceed on the Merits. That the Clerks of the Walsh Court house are in violation of Constitutional law and U.S. Supreme Court rulings because they have NO Oath of Office and rule their actions to be unconstitutional and Void because they have NO Oath of Office as well in violation of Federal law, ND Constitution and State law! Under North Dakota law, "whether a statute is unconstitutional is a question of law, which is fully reviewable on appeal." (*Simons v. State, Dept. of Human Servs.*, 2011 ND 190, ¶ 23, 803 N.W.2d 587). Any case law or laws supported by the Defendant or Court that are in violation of the U.S. Constitution or U.S. Supreme Court are Null and Void! The State did not reply to Plaintiff's Motion for Relief from Judgment served on the 31st day of January, 2024 within the time court rules allow. *Ridge at Back Brook LLC v. Klenert*, Pro Se Litigants are entitled to the same relief as those who are represented by council. Sanderson demands he be compensated for his time in these two cases!

CONCLUSION

The Court should grant the petition.

Respectfully submitted,

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