
United States Supreme Court

Washington, D.C.

KEVIN D. CHECKSFIELD,

Plaintiff-Appellant,

against

STEFAN BERG,

Defendant-Respondent.

On Petition to the New York State
Supreme Court Appellate Division — Third Dept.

Petition for a Writ of Certiorari

KEVIN CHECKSFIELD

Appellant - Pro Se

157 Cambridge St.

Syracuse, New York 13210

Phone# (315) 877-4064

Question Presented:

Does an Attorney failing to handle his client's interests by not filing a complaint in a timely and professional manner, and then purposely and with intent allowing applicable statutes to run violate his clients rights; and when brought up on Legal Malpractice charges commits perjury in submissions and statements to the courts violate said client's XIV Amendment protections and rights?

Parties Involved in
Case Before the U.S. Supreme Court
For a Petition of Certiorari

<u>Name</u>	<u>Role</u>
Kevin D. Checksfield	Plaintiff/Appellant
*J. Patrick DeLince, ESQ.	Consultant
Stefan Berg, ESQ.	Defendant/Respondent

*Mr. DeLince provided Plaintiff with the affidavit
at the Lower Court; as well as representing the
Appellant at the New York State Supreme Court
_____Appellate Division_____Third Department.

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Constitutional Provision

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Basis for Court Jurisdiction

Part I

In the
Supreme Court of the United States

Case Name: 522551

Kevin D. Checksfield, Petitioner,

Vs.

Stefan D. Berg, Respondent.

On Petition for a Writ of Certiorari To:
The New York State Supreme Court
Appellate Division_____Third Department

Kevin D. Checksfield, pro se
157 Cambridge St.
Syracuse, New York 13210
(315) 877-4064

This petition is based upon the following decision
of the New York Supreme Court___Appellate

Division__Third Department. Decision of March
16, 2017; after the timely filing of Motion to
Appeal by Petitioner.

State of New York
Supreme Court Appellate Division
Third Judicial Department

Decided and Entered: March 16, 2017

Case Number: 522551

Kevin D, Checksfield,

Appellant,

V.

Memorandum

And

Order

Stefan D. Berg,

Respondent.

Calendar Date: January 18, 2017

Before: McCarthy, J.P., Garry, Lynch, DeVine,
and Mulvey

DeLince Law PLLC, New York City (J. Patrick
DeLince of Counsel), for Appellant.

Stefan D. Berg, Syracuse, Respondent, pro se.

Devine, J.

Appeal from an order of the Supreme Court (Cerio
Jr., J.), entered May 20, 2015 in Madison County.
This, among other things, granted defendants
cross motion to dismiss the complaint.

Upon notification of Appellate Courts decision;
Petitioner timely filed a motion for leave to Appeal
to the highest New York State court:

State of New York

Court of Appeals

Decided and entered on the
Twenty-Seventh day of June, 2017

Present, Hon. Janet D. Flore, Chief Justice,
Presiding

Mo. No. 2017-471

Kevin D. Checksfield,

Appellant,

v.

Stefan D. Berg,

Respondent.

It is ORDERED, on the Courts own motion, that the appeal is dismissed, without costs, upon the ground that no appeal lies as of right from the unanimous order of the Appellate Division absent involvement of a substantial constitutional question.

Judge Feinman took no part.

A motion for Reconsideration was filed in a timely manner with the Court of Appeals addressing the exact issue raised by the Court of Appeals in the previous motion.

State of New York
Court of Appeals

Decided and Entered
On the Nineteenth day
Of October, 2017

Hon. Janet DiFiore, Chief Judge, presiding,
Mo. No. 2017-826

Kevin Checksfield,
Appellant, Motion For
Reconsideration

v.

Stefan D. Berg,
Respondent.

Motion for re-argument denied.
Judge Feinman took no part.

Introduction and Procedural History

The former U.S. Attorney for Southern New York exposed and prosecuted numerous New York State politicians, among others, for widespread corruption. The case being presented to the Supreme Court for review on Certiorari is an example of that corruption stemming from the abuse of authority by an agency of the State of New York. This abuse of authority includes what seems to be the active intimidation of attorneys in the representation of client's rights.

The Respondent (or Mr. Berg) was hired to represent the interests of the Appellant against an agency of the State of New York; the Respondent not only did not represent in an efficient and professional manner the interests of his client; the Respondent with intent strung his client along to make sure that any statutes had run. This is a mindset which continued through the proceedings. The situation became clear to the Appellant that I would have to represent myself in the Lower Court. After a succession of lawyers and firms I filed a default motion in the State Supreme Court of Madison County. The decision of that court was submitted on May 19th 2015.

The Notice of Appeal and Pre-Calendar Statement were filed in a timely way. This led to an Appellate Hearing on January 18th 2017. The Appellate was represented by J. Patrick DeLince of New York City. Mr. DeLince had provided the Appellant with the affidavit at the Lower Court. Approximately two months after the hearing in January the Appellate Court upheld the Lower Court decision. The Court never even mentioned

Mr. DeLince's submission to the court on appeal or his statements made at the hearing.

The decision which was released on March 16th 2017 astonished Mr. DeLince and the Appellant. After the Appellant and Mr. DeLince pointed out to the Appellate Court that the Respondent had lied at both the Lower Court and in his submission to the Appellate Court; that Court still upheld the Lower Court decision. The Appellate decided to appeal that decision to New York State's highest Court.

The Appellant motion to the New York State Court of Appeals was filed on or about April 15th 2017. The Appellant did not have high hopes that the Court would accept the case because of the connection between the State University of New York (or SUNY); the original defendant in the case the Respondent was representing the Appellant against; the Appellant felt that the inherent conflict of interest may be too much. That motion was rejected because the Appellants' primary argument was based on the New York State Constitution. The Appellant filed a motion of Reconsideration addressing that same issue and basing that motion exclusively on the U.S. Constitutions' Fourteenth Amendment. That motion was denied without explanation on October 19th 2017.

Federal Statute

This has brought the situation to the Supreme Court:

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 right, 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, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

(U.S.C. 42; chapter 21§ 1983)

Taking into consideration this federal statute and the fact in New York State, in order to show legal malpractice, a plaintiff must prove that the attorney in question was negligent; this negligence was the proximate cause of the plaintiff's injury; and but for that negligence, the plaintiff's action would have been successful. C&F Pollution Control Inc. v. Fidelity and Case Co. of N.Y., 222 A.D.2d. 828,653 N.Y.S. 2d 704 (3d Dep't 1995)

Constitutional Provision

Had the Respondent not been negligent in properly filing the Appellant's claim in a timely manner before the statute of limitations had run, the Appellant would have been able to proceed to litigation.

The Respondent in not filing a timely complaint denied the Appellant the opportunity to proceed to litigation against the State University of New York Health Science Center at Syracuse. As this case evolved from a wrongful termination/labor and employment matter into a legal malpractice case the Respondent's story of his involvement in the matter has changed. By committing perjury on this level and saying, after the fact, that the Appellant never had a case the Respondent violated the Appellant's Fourteenth Amendment privileges.

Amendment XIV

(Sec. #1) All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

(U.S. Constitution, XIV Amend. Sec 1)

As the Respondent in this case; Mr. Berg; simply did not file the complaint that he was paid to and promised he would. When Mr. Berg was turned in to the County Attorney Grievance Authority, he claimed, the Appellant was the one who was unresponsive or something to that effect. The contention in the Respondent's statement to the Attorney Grievance Authority was not that he ever thought the Appellant did not have a legitimate case; in fact; the Respondent said the Appellant did have a legitimate claim.

Statement of Case

Part II

The situation between the Appellant and the original defendant that the Respondent was supposed to represent the Appellant against started off as a contractual matter. The Appellant forced the situation to a grievance procedure which the Appellant and his coworkers won. It was at that point the employer terminated the Appellant's employment. The Respondent was immediately notified of this and he stated the termination was obviously retaliatory. This is when the Appellant and Respondent began to make plans to file a claim against the State University of New York Health Science Center at Syracuse. (See App. Pg. 15)

After supplying the Respondent with the material he requested and making payments to Mr. Berg with the expectation the complaint would be filed; a long period of broken promises to get the complaint filed began. The Respondent would promise to have the complaint ready for signing by a specific date and then fail to produce. The Respondent kept assuring the Appellant that there were specific statutes that stretched for years so that would not be a problem.

As time went by the Appellant grew increasingly frustrated, and gave Mr. Berg a final deadline to

have the complaint ready. The Respondent wrote back that he would try to do just that. (See App. Pg. 16) The deadline the Appellant gave Mr. Berg came and again the complaint was not ready. At that point the Respondent was turned in to the County Grievance Authority.

After missing two deadlines the respondent sent his reply to the Attorney Grievance Authority. (See App. Pgs. 17-19) If someone reads this statement and compares them to his statements to the lower court in Madison County they are clearly different. (See App. Pg. 21) The Respondent in his statements to the Grievance Authority claims that either complaint drawn up would have sufficed. Then to the lower court and then the Appellate Court he claims there never was a case. (See App. Pgs. 29-30) In fact, in submissions to both Courts the Respondent states the Appellant was not even a civil service employee of the SUNY Health Science Center at Syracuse. Yet in his statement to the Attorney Grievance Committee the Respondent states the Appellant was a civil service employee.

The State of New York recognized I was a civil service employee by awarding unemployment benefits. (See App. Pgs. 46-47) At every step of the legal process it has been made clear to the New York State's Courts that the Appellant has committed perjury.

At the motion hearing in Madison County I made it clear to the Judge that in the Respondent's submissions to the Court he had

lied. One of the first things I stated in court was, "Berg is lying," this statement does not appear in the transcript because I suspect it has been edited out. When I filed the Notice of Appeal in the Third District; you are required to file a Pre-Calendar statement. I clearly state in this that the Respondent committed perjury. (See App. pg 48) I was represented by J. Patrick DeLince at the New York State Appellate Court—Third Department.

Mr. DeLince in his submissions addresses the issue of the Respondent's perjury. After being given detailed records of the situation and everything that had transpired, Mr. DeLince provided that affidavit at the lower court. When I decided to appeal the decision of the lower court I asked Mr. DeLince to handle the appeal. There were two specific reasons I asked Mr. DeLince to represent me at the Appellate Court. The first was that Mr. DeLince had done a strong job with the affidavit at the lower court and had extensive experience as a labor/employment attorney. The second was that Mr. DeLince practiced and lived in New York City. There had simply been too many problems with the lawyers and firms the Appellant had worked with in the Upstate New York area.

In June 2001, well after the statute of limitations had passed, Mr. Berg claimed that Mr. Checksfield has no case to begin with. This completely contradicted his statements to Mr. Checksfield including his requesting payments from Mr. Checksfield for work that he had supposedly done.

(See App. Pg. 56)

The Appellate Court in reaching its decision simply did not respond to Mr. DeLince's submission to the court at all.

The Appellate Court in its approach to upholding the lower court decision never mentioned Mr. DeLince's comments at the hearing as well as his written submissions to the court. As I previously mentioned the Appellant did not have much hope when I decided to appeal to the highest Appeals Court. But, that is what happened; and; again the Respondent's blatant perjury was a main point. (See App. Pg. 70) After receiving the Motion for Leave to Appeal, the Appeals Court asked for a brief on the subject matter jurisdiction for this case. The Appellant compiled and sent a copy to the Respondent and the Court. (See App. Pgs. 73-75)

The motion was refused on the grounds the Appellant focused on the New York State Constitution. The Appellant in attempting to resolve this matter decided to file a Motion of Reconsideration to the New York State Court of Appeals. (See App. Pg. 76-81) In this Motion the Appellant focused on the United States Constitution's XIV Amendment. The Appellant still had the Respondent's perjury as one of the main points of the motion, also. The Respondent has continually committed perjury throughout this process and it appears the New York State Judiciary has adopted Perjury as a standard of practice if it protects the State's interests. The Appeals Court refused the Reconsideration Motion without explanation.

Rationale for Granting Writ

Part III.

The Appellant, having pointed out the Respondent's continued perjury through these proceedings, has accompanied these points with explanations of why it has taken so much time to get this case into court. Mr. DeLince echoed these points in his case to the Appellate Court. As Mr. DeLince pointed out to the Appellate Court, at the lower court hearing the Appellant attempted to pass to Judge Cerio material that would bolster the case that there had been substantial activities throughout the delay to getting the case to court.

When he went before the court, Mr. Checksfield attempted to hand up numerous correspondences between himself and various legal counsels whom he had engaged throughout the years. However, the court did not accept the documents. However, in his Memorandum of Law submitted with the affidavit, Mr. Checksfield referred to his understanding that the case remained in 'indefinite extension' preventing the court from entering a default judgment.

(See App. Pgs. 56-57)

It was apparent Judge Cerio did not seem to like having this case before him.

Including Mr. DeLince, a half dozen different attorneys and law firms have been directly involved with the case before this court. There has been a clear line in regards to the quality of advice. Mr. DeLince has come into this case originally to supply an affidavit and did an admirable job. As the case moved to the Appellate level, Mr. DeLince agreed to handle the case itself after examination of all records. Conversely, every other attorney has given conflicting and confusing advice. As Mr. DeLince pointed out in his submissions to the Appellate Court, every other attorney has referred to the case being on an "indefinite extension" which would give the statutory limit extra time. (See App. Pg. 82) Mr. DeTraglia is the attorney who got the complaint filed.

There is a precedent in New York State for an extended period of time for filing for a default motion. In Iorizzo V. Mattikow, the court was satisfied the plaintiff, after enduring a nine to ten year period of negotiation which presented, "a prolonged and tortured history of settlement discussions," had established it was not unreasonable under the circumstances. Iorizzo v. Mattikow, 25AD3d762 (2d Dept. 2006) And in U.S Bank N.A. v. Dorestant, CPLR 3215 provides that "if the plaintiff fails to take proceedings for the entry of judgment within one year after a default, the court shall not enter judgment but shall dismiss the complaint as abandoned, without costs, upon its own initiative or on motion, unless sufficient cause is shown why the complaint should not be dismissed," (CPLR 3215 [c]). It is not necessary for a plaintiff to actually obtain a

default judgment within one year of the default in order to avoid dismissal pursuant to CPLR 3215 (c) (see *Wells Fargo Bank, N.A. v. Combs*, 128 AD3d 812; 853; *Nowicki v. Sports World Promotions*, 48 AD3d 435, 436). Nor is a plaintiff required to specifically seek entry of a judgment within a year. "As long as 'proceedings' are being taken, and those proceedings manifest an intent not to abandon the case but to seek a judgment, the case should not be subject to dismissal." US Bank v. Dorestant, 131 AD3d 467 (2015).

By seeking and retaining a half dozen attorneys and by not letting questionable court decisions stop the Appellant it should be clear that proceedings have never stopped throughout this matter. It has been made obvious to the Appellant that there are elements within State Government and the State Judiciary who are not receptive to this case. The trend in New York State has been those charged with professional malpractices who do not respond to charges should explain why they did not respond. "...a defendant must show either there was no default, or that it has a reasonable excuse for its delay and a potentially meritorious defense." (*Fried v. Jacob Holding, Inc.*, 110 AD3d 56, 60; see *Wassertheil v. Elburg, LLC*, 94 AD3d 753, 753) US Bank v. Dorestant, 131 AD3d 467, 469 (2015). The Respondent has never once said why he never responded to the claim or what his defense would have been had he responded. Mr. Berg's response has been and continues to be, "I did not respond."

The second point in this matter which has to be addressed is, was there a meritorious claim? By establishing that the Respondent has committed perjury throughout these matters much of that question has been answered. However, Mr. DeLince did such a solid job in his submissions to the Appellate Court it should probably be touched on to an extent. New York State labor laws sections 740 and 741 state an employee may not be terminated solely for objecting to a practice within a company. Section 2c states, "an employer shall not take any retaliatory personnel action against an employee because such an employee does any of the following...objects to, or refuses to participate in any such activity, policy, or practice in violation of a law, rule or regulation."

Also N.Y.C.L.S. Labor §215(1)(a) states that, "no employer or his agent, or the officer or agent of any corporation, partnership, or limited liability company, or any other person, shall discharge, threaten, penalize, or in any other manner discriminate or retaliate against any employee because such employee has made a complaint to his or her employer, or to the commissioner or his or her authorized representative, or to the attorney general or any other person, that the employer has engaged in conduct that the employee, reasonably and in good faith, believes violates any provision of this chapter..." The Appellant objected to the way compensation and holiday times were withheld and the allocation of overtime posed dangerous safety issues for patients. It was through this process that the State University of New York

Health Science Center at Syracuse retaliated against the Appellant by termination.

Mr. DeLince in his submissions to the Appellate Court makes it very clear in a direct and concise way.

In this case, it is evident that these actions were direct violation of the collective bargaining agreement for the union under Article 23, Section 23.5 and Article 10.3. Thus, Mr. Checksfield would absolutely have had a right to bring such complaints. This is further evidence by the fact that the department itself acknowledged that there had been mistakes with the number of vacation days and amount of compensatory pay. (See App. Pg. 65)

The Respondent did not feel that the union could be litigated against. The Appellant felt he was mistaken, but, the main point was always to get the complaint filed against the hospital. For all the Respondent's posturing and promises to do so

he failed to make good on any commitment. As the Respondent has been held responsible for his inaction, his story has changed to, "Mr. Checksfield never had a case."

Section 740 applies to all employers in New York State, while Section 741 applies to only healthcare employers. Both sections prohibit any retaliatory personnel action. In Sec. 740 an employee must show an actual violation of law, rule or regulation. While Sec. 741 an employee only must show reasonable belief that the complained activity constitutes improper patient care.

The Fourteenth Amendment to the United States Constitution is often referred to as the “due process” amendment. If anyone had mentioned twenty or twenty-five years ago to the Appellant that in the early part of the twenty-first century I would be submitting a petition for certiorari to the U.S. Supreme Court, I would have thought it

Highly unlikely. Also, that I would be representing myself to the Supreme Court would have been laughable. Yet; here we are.

I have already mentioned in previous pages that actions at the lower court and the Appellate Court—Third Department seemed biased. As Mr. DeLince mentioned in his submission to the Appellate Court the Appellant attempted to hand material to the judge but, he would not accept them. In the United States v. Wells, respondents were charged with knowingly making false and “material” statements to a federally insured bank which put said respondents in violation of 18 U.S.C. §1014. At the end of the trial, the District Court instructed the jury, at the Government’s behest, that withholding a “material fact” made a statement or representation false, *id.*, at 41, 42 and defined a material fact as one “that would be important to a reasonable person in deciding whether to engage in a particular transaction.” United States v. Wells, 519 U.S. 482 (1997). The fact that Judge Cerio absolutely refused to even give evidence a glance that was pro-offered from the Appellant while examining the Respondent’s material is exactly the type of due process violation the Fourteenth Amendment was intended to protect citizens from.

Mr. DeLince in his submissions made clear the Appellant's position as a pro se litigant was due to failure and poor advice given to the Appellant. After a series of different lawyers came on the case and seemed unsure of what to do, they left the case with excuses such as they suddenly had become "very busy."

At the Appellate Court Mr. DeLince explained the position of the pro se litigant in New York State.

Mr. Checksfield came to the oral argument with numerous correspondences from various counsel representations concerning the matter. However, the court did not accept those documents. Had Mr. Checksfield understood what was expected of him for purposes of motion paper submission, he would have detailed his efforts in not abandoning the claim in his declaration and attached documentary exhibits. The court should have been less exacting in dismissing the motion and granting the cross-motion dismissing the complaint in light of Mr. Checksfield's status as a pro se litigant and that fact that the complaint dealt with an issue of attorney malpractice.

New York courts have long viewed pro se status of a party sufficient to not be as stringent with respect to procedural requirements in litigation. (See App. Pg. 60)

Judge Cerio did not seem to be very fair minded by not even taking a look at material; he could take time to consider this material because the Judge reserved his opinion.

The Supreme Court has dealt with the "due process" question in various cases. In Goldberg v. Kelly, a group of New York City residents who received aid from federally funded assistance programs and state administered aid services allege these aid programs were abruptly ended or about to be terminated without the benefit of pre-termination hearings. One of the most crucial points in this case and many other "due process" cases is a fair minded administrator or judge. "The decision maker must be impartial, and, although prior involvement in some aspects of a case will not necessarily bar a welfare official from acting as decision maker, he should not have participated in making the determination under review." Goldberg v. Kelly, 397 U.S. 254 (1970).

A judge who refuses to even look at evidence cannot be considered impartial. This raises the question how can that individual be trusted to even want to discern if the Respondent has committed perjury. The Appellant has made it clear that at both the lower court and the Appellate Court the Respondent had committed perjury. With any issue involving due process the fairness of the court or tribunal is one of the most crucial factors.

Many legal concepts and rules have a fixed conception that is commonly understood and accepted. With due process there is a more situational aspect. "Due process is flexible, and calls for such procedural protections as the particular situation demands." Morrissey v. Brewer, 408 U.S. 471, 408 U.S. 481 (1972). If either Judge Cerio at the lower court or any of the five Justices at the Appellate Court had taken into serious consideration the fact that the Respondent had committed perjury the case would have at least been remanded back to the lower court.

By not having a fair hearing at lower court and the fact that the Appellate Court did not address Mr. DeLince or seem to consider his admissions and statements on appeal effectively the Appellant was denied counsel. "The fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and in a meaningful manner.'" Armstrong v. Manzo, 380 U.S. 545, 380 U.S. 552 (1965).

In the case of Mathews v. Eldridge, the question of certiorari to a United States Court of Appeals comes into play. The case revolves around the petitioners' right to Social Security benefits. Because Social Security benefits are a governmental entitlement this particular situation fell under the Fifth Amendment. But, the Court saw how the connection of due process would work for both the Fifth as well as the Fourteenth Amendments. "...the interest of an individual in continued receipt of these benefits is a statutorily

created "property" interest protected by the Fifth Amendment." Mathews v. Eldridge, 424 U.S. 319 (1976). The court goes on to extend the scope of the restrictions placed on certain decisions.

"Procedural due process imposes constraints on governmental decisions which deprive individuals of 'liberty' or 'property' interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment." Mathews v. Eldridge, 424 U.S. 319 (1976).

The Respondent prepared two different complaints against the Appellant's former employer, the State University of New York Health Science Center at Syracuse. Mr. Berg even had the Appellant sign a verification form so he could file the suit. The definition for perjury from Black's Law Dictionary is "...statutes have broadened the offense so that in some jurisdictions any false swearing in a legal instrument or legal setting is perjury, even if it is not material and even though it is not presented in a judicial proceeding." By even using the more narrow view it is clear Mr. Berg has committed perjury throughout these proceedings.

Mr. Berg's perjury has been the integral element which has allowed the lower court and the Appellate Court to violate the Appellant's "due process" rights guaranteed by the Fourteenth Amendment. Some of the cases presented in these submissions helped establish some ground rules which establish whether an individual's due process right has been violated or denied.

There are certain common themes that run through various models.

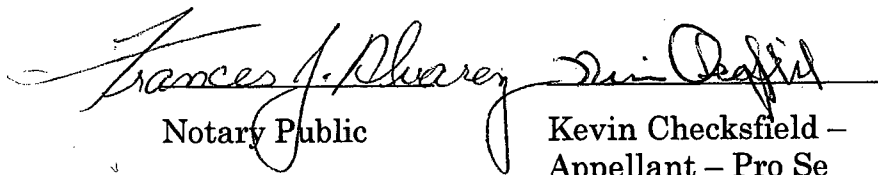
One of the common rationale in any model the courts use in determining if someone's due process protection has been violated is the right to present reasons why a proposed action should not be taken. By the lower court refusing to look at evidence and the Appellate Court not considering Mr. DeLince's submissions or statements the Appellant's rights and protections have been violated. Also, the Appellate Court by not addressing Mr. DeLince has effectively denied the Appellant the right of counsel.

The most crucial element in any of the requirement lists on whether an individual's due process rights have been violated is an unbiased court or tribunal. It should be clear from the Appellant and his attorney at the Appellate Court that this most important element for the Appellant's Fourteenth Amendment protections has been violated. Mr. Berg failed in his responsibility to his client by not filing an appropriate claim in a timely way. The Respondent has continued this process by committing perjury at the Lower Court in Madison County and then at the Appellate Court in Albany. Thusly, Mr. Berg has and continues to violate the Appellant's Fourteenth Amendment rights.

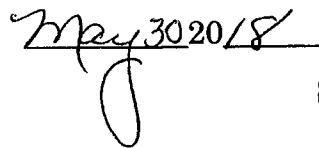
Conclusions

The Appellant is aware that this is a drastic, costly, and time consuming matter to bring a case to the Supreme Court, even for a writ of certiorari. I ask the Court to give careful consideration to extend certiorari in this matter and I am aware the Court and its schedule is limited in the cases it can hear. But, this is not simply a legal malpractice case between a client and an attorney; this matter deals with the highly questionable behavior of elements in New York State Government as well as the State Judiciary.

The Respondent has never had any representation in regards to this matter. In fact, Mr. Berg has never had a second opinion in regards to his position on the merits of the original case. This means the Respondent is acting as his own lawyer, and his expert on labor/employment matters. This is the height of a conflict of interest. And, given the extensive disciplinary history Mr. Berg has had, the Appellant respectfully asks the Court to extend certiorari in this matter and send a strong message to the Respondent and those helping him behind the scenes that this type of behavior will not be tolerated.


Notary Public

Kevin Checksfield –
Appellant – Pro Se


May 30 2018

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Syracuse, New York 13210

Tel. # (315) 877-4064

FRANCES J. ALVAREZ
Notary Public - State Of New York
Registration No. 4975174
Qualified in Onondaga County
Commission Expires 12/03/____