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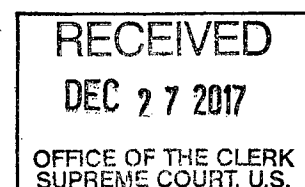
IN THE UNITED STATES SUPREME COURT
FOR THE UNITED STATES

In RE. Elmer Scheckel, *Petitioner*,

PETITION FOR A REHEARING
EXTRAORDINARY
WRIT OF PROHIBITION/MANDATE

The last to hear this issue was the United State Supreme
Court on December 1, 2017

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QUESTION PRESENTED

STATE SUPPRESSION OF CONSTITUTIONAL RIGHTS

1. Can the State Iowa or any state deny a constitutional grand jury trial rights as a doctrine and Suppress a directly stated in the Federal Constitution, Fifth Amendment, which 22 states clearly have and practice and violate the Supreme Authority, Supreme Court decisions? How is this not discrimination?
2. How are these judicial officers not committing a crime when they won't recognize or consider the directly stated *Constitutional Rights*?
3. Question of public importance, when a judicial officer makes a ruling that's clearly a criminal act, are they accountable even though they ruled against the *constitutions and rights and U.S. Supreme Court's* rulings? Clearly not. No court can sight any *constitutions* because statutes and any rules of court are held above them. Is this not an act of treason when they studied the law and know it's an illegal act?

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JURISDICTION

1. This Court's jurisdiction is timely invoked under Title 28 U.S.C. 1651 under writs of scire facias.

Parties

STATE OF IOWA.

Elmer Scheckel, Petitioner / Defendant. Pro se

PETITION

History

2. **Statement of the Case:** This is an appeal from *convictions following a trial on the minutes of testimony* on and for interference with judicial acts and tampering with a witness in Buchanan County case number AGCR078244, under color of law based on simple misdemeanors charges, listed below.

Course of Proceedings: On May 7, 2013, the defendant, Elmer Scheckel, was charged with interference with judicial acts in violation of Iowa Code section 720.7 (2013), an aggravated misdemeanor; and one count of tampering with a witness in violation of Iowa Code section 720.4 (2013).

3. **Statement of Facts:** The defendant, Elmer Scheckel, was charged with a number of non-accident traffic

violations in 2012. The matters were tried before a jury in March of 2013. Case Nos. STA0029320, STA0029321, NTA0029322, NTA0030111, STA0030112. STA0030113, STA0030114). Scheckel was found guilty and fined. In addition, the court sentenced him to 60 days in jail, 45 days in solitary, for contempt because Scheckel argued to the jury he had a constitutional right to travel after being warned not to by the court. Following the trial, both Officer Brinkema and Magistrate Judge Ristvedt received a letter allegedly signed by the defendant demanding to be compensated by money, for violating his constitutional rights.

Following that, the Defendant/ now petitioner was indicted with a judge signing off as the grand jury on a criminal complaint signed by the prosecuting attorney, for allegedly criticizing the courts officers for constitutional misconduct, and violations. Not by the alleged victims, but the proscuter. When does the prosecutor get to the excuser and prosecutor?

4. Court errored in preceding when violating defendants Grand Jury Rights

With the charges of 720.4 TAMPERING WITH WITNESSES OR JURORS, 720.7 INTERFERENCE WITH JUDICIAL ACTS which carries a sentence of 2 years for each charge which is an aggravated misdemeanor excepted under federal and most states is a felony charge, title 18 sec. 3559. The defendant has the right of right of grand jury indictment before bringing the

charge against me, which a judge signed off as the grand jury under rule Iowa rules of court 2.5 which removes any right to a grand jury. Here is a case in which the accusing people are officers of the court who allegedly know the law, but the complaint against the then defendant, was not under oath, and not sign by the alleged complaint, but the county attorney, and their was no GRAND JURY INDITMENT. Isn't it a requirement for them to have attend law school, and take a oath to uphold the constitution?

Grand jury Rights Recognized in 22 Other States

5. When the District court proceeded without a grand jury indictment is a direct violation of the U.S. constitution 5th amendment, and the Iowa Constitution, article 1, section 11. Given the fact that 22 states and the federal courts comply with this provision of their State laws and the Federal Constitutions, like Pennsylvania, New York and, Virginia, Washington, West Virginia, Wyoming, and north Carolina, so why don't I have this right in Iowa. The charges in section 720.4 and 720.7 carries a two year jail sentence for each charge. It clear that the right exist in several states and in the federal court if charged but it doesn't at all in Iowa. If charged in Federal court, it's a felony. And if the Iowa judicial officers get criticized, they will fabricate something or some charge against those with higher crimes, with no chance address the grand jury, even though they clearly violated a provision of constitutions, and several Supreme Court rulings clarifying the right.

Isn't the purpose of grand jury to see if a crime was committed? In rule 6 of the federal rules of court, clearly set out this right, therefore this court should consider it, because several other states has this right in 22 states, yet doesn't exist in Iowa. In North Carolina, State v. Thomas, 236 N.C. 454 (1952), grand jury rights on misdemeanors, to name 1, why does it exists in the federal courts and other state courts but not in Iowa, when judges uses their authority to make rules to dismiss constitutional rights, like Iowa rules of court 2.5, then bring further charges against anyone who criticize them because of their Illegal acts. As stated by U.S. supreme court: what's the point of respecting any judicial officer when they rule directly against your rights. Stated in William Malloy vs. Patrick J. Jogan,

"that all rights and safeguards contained in the first eight amendments to the federal constitution are equally applicable in every State criminal action, "because a denial of them would be a denial of due process of law." William Malloy vs. Patrick J. Jogan, 378 U.S. 1, 84 S. Ct. 1489, argued Mar 5, 1964, decided June 15, 1964

6. *The constitutional rights Specifically Stated*

U.S. constitution Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any

person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

IOWA CONSTITUTION ARTICLE 1 SECTION 11

When indictment necessary. Section 11. All offences less than felony and in which the punishment does not exceed a imprisonment for thirty days, shall be tried summarily before a Justice of the Peace, or other officer authorized by law, on information under oath, without indictment, or the intervention of a grand jury, saving to the defendant the right of appeal; and no person shall be held to answer for any higher criminal offence, unless on presentment or indictment by a grand jury,* except in cases arising in the army, or navy, or in the militia, when in actual service, in time of war or public danger.

Rule of court removing Rights

7. Iowa rules of court says: 2.5(1) *Prosecution on information.* All indictable offenses may be prosecuted by a trial information. Any information charging a person with an indictable offense may be filed with the clerk of the district court at any time, whether or not the grand jury is in session. The county attorney shall have the authority to file such trial information except as herein provided or unless that authority is specifically granted to other prosecuting attorneys by statute.

The court of appeals ruled that I no rights to a grand jury based on this rule of court, Exhibit A, page 12.

All laws which are repugnant to the Constitution are null and void, Marbury vs. Madison, 5, U.S. 137, 174, 176, (1803)

Constitutional Guarantee

8. ARTICLE XII. IOWA CONSITUTION

Supreme law--constitutionality of acts. SECTION 1. This constitution shall be the supreme law of the state, and any law inconsistent therewith, shall be void. The general assembly shall pass all laws necessary to carry this constitution into effect.

In the case UNITED STATES, Petitioner v. John H. WILLIAMS, Jr. No. 90-1972. 112 S.Ct 1735 504 U.S. 36 118L.Ed2d 352 the Supreme court held :

Recognizing this tradition of independence, we have said that the Fifth Amendment's grand jury rights "a constitutional guarantee presupposes an investigative body 'acting independently of either prosecuting attorney or judge'. . . ." Id., at 16, 93 S.Ct., at 773 (emphasis added) (quoting Stirone, supra, 361 U.S., at 218, 80 S.Ct., at 273).

9. I filed suit in state court case # CVCV 008350 which turn into appellant case in which the court ruled that the right to Speedy trial on simple misdemeanors didn't apply to me because I was not charged with an indictable

offence, and was upheld by the Iowa Supreme Court which was before them for 16 months. Exhibit B. Moved it to Federal court in case # 16-CV-2100-lrr under a title 42 1883 color of law suit which the court ruled that it could not intervene in state matters under Rooker-Feldman doctrine. Exhibit 3.

Can't sew for this right

10. A person can't sew for, or move for the correction of sentence for the speedy trial rights on grand jury rights because the state of Iowa doesn't recognize these rights directly stated in the federal and state constitutions or no one has these rights in the state of Iowa, because a rule of court remove it. The appeals court ruled that I have no Federal or State grand jury rights in Iowa, court ruling, exhibit A, page 11. Iowa Supreme Court upheld it by refusing to hear this case. Exhibit B. If raise the issue again in any court in my defense, the court will claim res judicata, even though is does not apply to violations of constitutional rights, as they already have. I tried to moved it to Federal court in case # 16-CV-2100-lrr under a title 42 1883 color of law suit which the court ruled that it could not intervene in state matters under Rooker-Feldman doctrine. Exhibit C, page 14. Exhibit D, constitutional rights explained away, in violation of the supreme court ruling, Barker v. Wingo, 407 U.S. 514. This leaves me with this petition as a final course of action. As stated in case # C16-2100-lrr the federal court rejects the state court rulings under color of law, but can't do anything because of Rooker-Feldman doctrine. Then

the court went on to state, Its a issue for the U.S. supreme court, but what good is that if this court refuses to hear it? Bought a suit in Iowa in case number NO. CVCVO08350, and Under Iowa law but was ruled against because no one has that right. The court changed the facts from speedy trial rights to contempt proceeding, and indictable offences. Over looking the fact speedy trial rights were violated. Exhibit E, page 42, 43. The Iowa court system used their knowledge of the court system to change the facts in any way to ensure the issues will not be heard.

Direct violation of the Fourteenth Amendment

11. "Section 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."

How is the Justice system in Iowa not denying every one equal protection under the law when the Constitutional guaranteed rights which are plainly stated removed by a rule of court?

Court officers directly violating the constitutions to suppress rights.

12. When the Supreme Court of Iowa wrote the rule 2.5 rule, which there is no legislative act is behind it. As it's

posted on the web site that of the Iowa supreme court writes all rules of court. With the clear violation of the Federal constitution 6th Amendment, and the 14th amendment cited above, how are these judges not in violation title 42 U.S.C. section 1983, 42 U.S.C. section 1985, section 2, 3 1986, 1987, 1988 and Title 18 241, 242.

13. How are these judges not in violation of these laws and why can't they be charged, or held accountable? Criminal complaints have been filed against them, and tried suing them, yet been told that nobody has that right in Iowa and they are judicially immune. All of them can read and studied the well established case law and the Constitutions. As federal law reads that they violated:

§ 241. Conspiracy against rights

If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured -

They shall be fined not more than \$10,000 or imprisoned not more than ten years, or both; and if death results, they shall be subject to imprisonment for any term of years or for life.

§ 242. Deprivation of rights under color of law

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any inhabitant of

any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and if bodily injury results shall be fined under this title or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

Under title 42 U.S.C. section 1983, states

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, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory 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.

CLAIMS OF IMMUNITY

14. I have site all of above before in state court and in the federal court always said they are judicially immune, and title 42 U.S.C. section 1983, section 2, 1986, 1987, 1988 in federal court which can't be heard under Rooker-Feldman doctrine, leaving me with this as a final course of action. But as the U.S. Supreme Court has ruled in these cases immunity is gone when there a constitutional violation, yet in Iowa, they hold them self's total immune, as stated in:

Chandler v. Judicial Council of the 10th Circuit, 398 U.S. 74, 90 S. Ct. 1648, 26 L. Ed. 2d 100

Justice Douglas, in his dissenting opinion at page 140 said, "If (federal judges) break the law, they can be prosecuted." Justice Black, in his dissenting opinion at page 141 said, "Judges, like other people, can be tried, convicted and punished for crimes... The judicial power shall extend to all cases, in law and equity, arising under this Constitution".

Cooper v. O'Conner, 99 F.2d 133

There is a general rule that a ministerial officer who acts wrongfully, although in good faith, is nevertheless liable in a civil action and cannot claim the immunity of the sovereign.

Forrester v. White, 484 U.S. at 227-229, 108 S. Ct. at 544-545 (1987); Westfall v. Erwin, 108 S. Ct. 580 (1987); United States v. Lanier (March 1997)

Constitutionally and in fact of law and judicial rulings, state-federal "magistrates-judges" or any government actors, state or federal, may now be held liable, if they

violate any Citizen's Constitutional rights, privileges, or immunities, or guarantees; including statutory civil rights.

"that all rights and safeguards contained in the first eight amendments to the federal constitution are equally applicable in every State criminal action, "because a denial of them would be a denial of due process of law."

William Malloy vs. Patrick J. Jogan, 378 U.S. 1, 84 S. Ct. 1489, argued Mar 5, 1964, decided June 15, 1964

15. So, how can they have judicial immunity when they clearly violated the Constitution's, the Federal and state laws and my rights?

DISCRIMINATION

16. This court seems to allow decimation when 1 state has all constitutional rights in criminal actions, as in Federal court and the rights are considered as clarified by the U.S. supreme Court, and the next state totally denies these rights because it's a cross state lines. Why not say blacks are not entitled to these rights, or whites or any ethnic race. As sited above, you said in William Malloy vs. Patrick J. Jogan, 378 U.S. 1, 84 S. Ct. 1489, all eight amendments apply, so state rights don't apply, and the 14th amendment violation which seems clear no one will or can up hold, but prohibits these act. None of you can follow the law, why should anybody else? Guess that give me immunity because no law exists.

SUPREME COURT INVITES VIOLENCE

17. The Supreme Court invites violence to this country when there is rights directly stated in the Federal Constitution, and clarified by the U.S. supreme court which half the people are granted these rights and half don't. The Supreme courts inactions invites violence between the government officials and the have's not's because the legal challenges has been made, and as shown in the past, you, like all Iowa courts, do nothing to uphold the Constitutions' and your own rulings, and federal laws, when you see these or have been shown court officers committing felonies, but do nothing. All it take for evil to succeed is for a few people not to do there job Your part of the problem when you fail to Act. Does the Highest Authority mean anything? It will happen, not by me, but your setting the conditions for this to happen, with your inactions.

PEITIONER IS ENTITLED

18. As show above, and before, I, the Petitioner is entitled and as state in Roche v. Evaporated Milk Association, 319 U.S. 21(U.S.1943), Ex parte United States, 287 U.S. 241 (U.S. 1932), Calderon v. United States Dist. Court, 144 F.3d 618 (9th Cir. Cal. 1998), In re Lewis, 223 S.W.3d 756 (Tex. App. 2007), which as the court stated, requires an answer of the court, to overturn or answer as to how to correct this problem to recognize all rights.

REMEDY SOUGHT

The petition for rehearing of Extraordinary writ of PROHIBITION/MANDATE should be Granted and this

court should set the grounds for correction of all sentences to comply with the Constitutions.

19. This Petition should be granted because of it's controlling effect to force the state of Iowa to recognize this and all constitutional rights or prohibit the state from rejecting the constitutional rights because this right which is directly stated in the federal constitution, in U.S. constitution 5th amendment and clearly defined in UNITED STATES, Petitioner v. John H. WILLIAMS, Jr. No. 90-1972. 112 S.Ct 1735 504 U.S. 36 118L.Ed2d 352 in which the state of Iowa doctrine directly violates the 14th Amendment in which no one in Iowa can appeal for, sew for it, or move for the correction of sentence because no one has that right in the state of Iowa and will be sanctioned for filing a suit , but in federal court, a person can't sew the state for it in federal court under a doctrine of rookers feildman doctrine, so declaratory relief was unavailable, and no other court can hear the issues in this case, or in federal court, except the U.S. Supreme Court. I seek a way to correct this problem without violence, which is clearly established in federal law and court rulings. What does it take to have or exercise this right and all rights in the judicial system, which 22 states clearly has it or but we have it? 22 states which clear has this rights, but the rest of the states don't, does that mean the they about legal remove this right and all rights though the court system? Your guilty because you are accused. Your inaction is is setting the precedence to removing the right from everybody, are you guys removing this rights everybody should have, a form of defense? Because all of Americans may encounter a case where they will face this issue, yet most in will not get the protections guaranteed in the constitutions, this court

should grant this writ. I seek a way to correct this problem, for all constitutional rights which you clarified.

Second, because I have been completely thought the state court system for 2.5 years which the Iowa court openly denies that constitutional right, because there are no provisions in the Iowa rules of court for this right, that exceptional circumstances warrant the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court. Does anybody in this state have this right specifically stated in the Constitutions or not? How am I under the Jurisdiction of this Iowa court? If not, how soon will they suppress the rest of everybody's constitutional rights though the court system? Can anyone held accountable for their crimes if judicial officers can't be held accountable? Is the above not an act of treason defined in Scheuer v. Rhodes, 416 U.S. 232, 94 S.Ct. 1683, 1687 and striped of all Immunity because they ruled against the constitution? With NO other Court in this Jurisdiction can hear the issues presented in this Writ, I seek a way to correct the illegal acts? Please tell me or show me?

RESPECTFULLY SUBMITTED



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