

No. 17-7919

IN THE
Supreme Court of the United States

Henry DuLaurence, III,
Petitioner

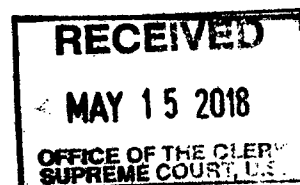
v.

Arthur G. Telegen and Liberty Mutual Insurance Co.
Respondents

**On Petition for a Writ of Certiorari to the United States
Court of Appeals for the First Circuit**

PETITION FOR REHEARING

Henry J. DuLaurence, III
Petitioner Pro se
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QUESTIONS PRESENTED

1. Whether the United States Supreme Court as a matter of law must accept this case for determination, as the lower Federal Courts have obstructed justice pursuant to 18 U.S.C. § 242, and 28 U.S.C. § 455, and will not address the issues on the merits, and whether this denial undermines the United States Constitution's basis for the Supreme Court in the first place?

2. Whether this Court must accept this case if for no other reason, that lawyers are using this ill begotten District Court opinion setting out *ad hominem* attacks on the petitioner, which although illegal, appear to be working to bias the judges.

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Now comes the petitioner in the above entitled action and submits this Petition For Rehearing pursuant to Rule 44.2, based on "intervening circumstances", and "other substantial grounds not previously presented". The petitioner further advances criminal aspects of the case.

ARGUMENT

I. THIS COURT MUST ADDRESS ACCOUNTABILITY FOR JUDICIAL ACTIONS CONSTITUTING OBSTRUCTION OF JUSTICE.

Article III, Section 2, Clause 1 states: "The judicial Power shall extend to all cases in Law and Equity, arising under the Constitution, (and) the Laws of the United States... The petitioner has claimed he was deprived of rights secured by the United States Constitution and Federal statutes, namely the right to redress.

Federal obstruction of justice statutes bar anyone from interfering with law enforcement based on a "corrupt" motive. No person is above the law. See, e.g., *United States v. Nixon*, 418 U.S. 683, 715 (1974). The Appeals Court refused to adjudicate on the merits the 28 U.S.C. § 455 appeal of its own District Court Judge. If Congress passes laws, the Appeals Court weakens their effect by refusing to enforce them, or enforcing them only in limited cases. The District Court judge has been permitted by the

Appeals Court to engage in criminal activity without fear of reprisal.

The crime of obstruction of justice applies to judges. As defined by statute and precedent, the crime of obstruction occurs when an individual "corruptly" endeavors to impede or influence a proceeding, and the word "corruptly" is understood to mean "with an improper purpose". Article III of the Constitution and the Code of Conduct for United States Judges obligates judges to take care that the laws be faithfully executed, and "the Supreme Court shall have appellate jurisdiction, both as to law and fact". (Article III Section 2.) Adjudications are "void" when a judge does not apply the correct law as to subject matter jurisdiction, not adhering to Federal statutes on that issue. The lower courts did not even acknowledge the Federal statutes 42 U.S.C. § 1983, nor 28 U.S.C. § 455. They not only did not apply the correct law, but they applied no law.

Judicial corruption can take subtle and destructive forms. A dishonest judge can ignore evidence, twist rules and procedure, obstruct the record, retaliate, manufacture facts or ignore others, allow infirm claims or dismiss valid ones, deny admission of evidence prejudicial to the

favored party, mischaracterize pleadings, and misapply the law. When he or she does these things intentionally (motivation is a separate issue), he commits a crime. Petty or grand, the acts are still crimes. It takes surprisingly little to "steer" a case. Right out from under Congress' nose, the judicial branch of our government placed itself out of reach, and eliminated all means to be held accountable to the public for their actions. This Supreme Court in condoning such actions, has wiped out two Federal statutes in one sitting, Title 42 U.S.C. § 1983, and Title 28 U.S.C. § 455.

The District Court judge's actions were not merely misbehavior, but criminal behavior. The only recourse would be that the judge recuse himself pursuant to § 455. What judge wouldn't desire the power to block the investigation of his or her own crime? It is hard to imagine a more fundamental or structural conflict than that. To protect the sanctity of the judiciary, otherwise honest judges are driven to shield the misdeeds of their brothers at the bar. This behavior comes at the expense of public trust; it is entirely unpardonable. The courtroom is no place for situational ethics.

Effectively, judges "dispense" our rights at their

whim and pleasure with total impunity. They are "kings", with their own domains (See Constitutional issue at page 5 below.) Unfortunately, ordinary citizens have no other means to enjoy or enforce their civil rights except through the court system. Without a mechanism for remedy (the court), you have no rights. If a judge refuses to order relief, then you don't get any. Judges are the people who are supposed to ensure that justice is done.

Title 18 U.S.C. § 242 provides that judges are liable for criminal acts committed under "color of law", meaning that judges may be immune from prosecution for civil misbehavior, but they are not immune from prosecution for criminal behavior. The only way to make a judge answer for criminal behavior is to bring criminal charges against him. The ultimate irony here is that the only way to bring criminal charges against a bad judge is to ask another judge for permission to pursue the bad judge. As noted above, that will never happen. As long as the subjects of the investigation (judges) are the gatekeepers of the investigation, there will be no investigation. Therefore, judges have rendered Title 18 U.S.C. § 242 unenforceable.

A. The United States Constitution Establishes and Empowers the Judicial Branch of the National Government.

Article III of the United States Constitution establishes and empowers the judicial branch of the National Government: "The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts *as the Congress* may from time to time ordain and establish" (Emphasis added.). Article I Section 8 deals with The Powers of Congress. It is Congress that is to set out the establishment and powers of the "inferior courts".

"The Title of Nobility Clause" is a provision of Article I, Sec. 9, Clause 8 of the U.S. Constitution that prohibits the federal government from granting titles of nobility: "No title of nobility shall be granted by the United States". Therefore, as it is Congress that grants the powers of the lower federal courts, it is also limited by other Constitutional provisions, such as "The Title of Nobility Clause". Therefore, although the District Court judges have the title of "judge", the way this has been construed is that they are actually non-titled "kings", as they have their own domains, and are not subject to any accountability. They are actually "judges" aka "kings". Not only does this Court refuse to use its appellate supervisory capacity to control the illegal actions

prescribed by Federal statutes.

The Court in *U.S. v. Chantal*, 902 F.2d 1018 (1st Cir. 1990), stated:

[Section] 455(a) is automatic, mandatory, and self-executing. The adoption of ABA Canon 3C was a response to criticism of the inadequacy of the § 144 approach... It attacks the appearance of bias, not bias in fact...[I]n the First Circuit, § 455(a) is an independent basis for mandatory disqualification which requires no determination of fact. Nor does the fact that the source of the judge's bias arises out of or originates in judicial proceedings immunize the judge from the inquiry whether such factor would, in the mind of a reasonable person, raise a question about the judge's impartiality. Id. at 1023-1024.

B. This Court Fails to Adhere to its Own Prior Decisions.

Recently this Court in *James v. City of Boise, Idaho*, 136 S. Ct. 685 (2016) (per curiam), stated:

'It is this Court's responsibility to say what a [Federal] statute means, and once the Court has spoken. it is the duty of other courts to respect that understanding of the governing rule of law'. (citations omitted). Id. at 686.

Claims for relief must be allowed when justice so requires. *Johnson v. City of Shelby, Miss.*, 135 S. Ct. 346 (2014) (per curiam).

The petitioner has claimed lack of "procedural

due process" as set out in this Court's *Zinerman v. Burch*, 494 U.S. 113, 125-126 (1990), his deprivation of his Constitutional right to redress. (See page 24 of the Petition for a Writ of Certiorari.)

In addition to protection against *procedural* due process, the Due Process Clause has two *substantive* components—the substantive due process *simpliciter*, and incorporated substantive due process. In order to state a claim for violation of the substantive due process *simpliciter*, a plaintiff must demonstrate that there was conduct that was "arbitrary, or conscience shocking, in a constitutional sense". *Collins v. City of Harker Heights, Texas*, 503 U.S. 115, 128 (1992). This would pertain to the lower federal courts' rulings, both as to "jurisdiction", and to § 455.

With respect to incorporated substantive due process, a plaintiff may state a claim by proving a violation of one of the Bill of Rights, like ones Constitutional right to redress. This Court has held that one of the substantive elements of the Due Process Clause protects those rights that are fundamental—rights that are implicit in the concept of ordered liberty, and has, over time, held that virtually all of the Bill of Rights protect

such fundamental rights and has likewise held that they apply to the states through the "liberty" interest of the Due Process Clause. *Palco v. Connecticut*, 302 U.S. 319, 325 (1937).

C. This Court Must Address "Accountability".

The claim that the defendant in a civil rights suit 'so far succeeded in corrupting the state judicial process as to obtain a favorable judgment' is not barred...Otherwise there would be no federal remedy other than an appeal to the U.S. Supreme Court, and that remedy would be ineffectual because the plaintiff could not present evidence showing that the judicial proceeding had been a farce...(citations omitted). *Loubser v. Thacker*, C.A.7th, 2006, 440 F.3d 439, 441-442, certiorari denied 126 S.Ct. 2944, __U.S.__, 165 L.Ed.2d 956.

Commentary to the Code of Judicial Conduct, Canon 1, "Integrity of the Judiciary", states:

Commentary...(Judges) must comply with the law...[V]iolation of this code diminishes public confidence in the judiciary and thereby does injury to the system of government under the law.

II. IF THIS COURT ALLOWS THE LOWER COURT RULINGS TO STAND, IT WILL ITSELF BE GUILTY OF MISCARRIAGE OF JUSTICE, AS IT WILL ALLOW AD HOMINEM ATTACKS TO BE PERPETRATED AGAINST THE PETITIONER FOR THE REST OF HIS LIFE.

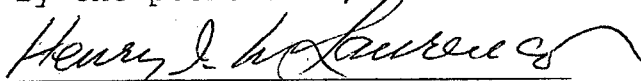
There have now been illegal *ad hominem* attacks perpetrated against the petitioner in a completely

unrelated case, using the District Court opinion to attack the petitioner's character, causing a Massachusetts Trial Court judge to provide a highly questionable adjudication. The petitioner has set this out in this Petition for Rehearing, as Exhibit 1. The appeal was filed in the Massachusetts Appeals Court on May 7, 2018. (Exhibit 1.)

CONCLUSION

The judges supervising the petitioner's civil case ignored evidence and procedure, ignored Federal law and this Court's case law, dismissed valid claims, mischaracterized pleadings, refused to hear the petitioner's motions, and misapplied the law. The petitioner has alleged that these acts were knowing and intentional. They are well supported in the record. In the denial of the Petitioner for a Writ of Certiorari, this Court is on record as condoning those lower courts actions. This Court must address and render some accountability for the perpetrated obstruction of justice.

By the petitioner,



Henry J. DuLaurence, III
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(978) 740-0098
Massachusetts BBO# 137660

Dated: May 8, 2018

Exhibit 1

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss

SUPERIOR COURT
CIVIL ACTION NO. 1677CV01482A

PAULA CARNELLI and
HENRY J. DULAURENCE, III
Plaintiffs

vs.

BELL AT SALEM STATION and
TRISTAN ROBERTS
Defendants.

**DEFENDANTS, BELL AT SALEM STATION AND TRISTAN ROBERTS' MOTION TO
DISMISS PLAINTIFFS' COMPLAINT**

Pursuant to Rule 12(b)(6) of the Massachusetts Rules of Civil Procedure, and for the reasons more fully explained in the accompanying memorandum of law, the Defendants, Bell at Salem Station and Tristan Roberts, move to dismiss the Plaintiffs' Complaint on the ground that it fails to state a claim upon which relief may be granted. Mr. DuLaurence has a history of pursuing meritless claims, and using "vitriolic language . . . including personal attacks on the judges who have decided his cases in the past."¹ What is before this court is no different, except that Mr. DuLaurence's target this time is his landlord.² The Complaint should be dismissed as not only are the claims baseless, but the Plaintiffs' Complaint fails to state a claim upon which relief may be granted. As grounds for this Motion, the Defendants state as follows:

1. To survive a motion to dismiss, a complaint must contain factual allegations sufficient "to raise a right of relief above speculative level . . . [based] on the assumption that all

¹ DuLaurence v. Telegan, 94 F. Supp. 3d 73, 83 (D. Mass 2015), a copy of which is attached hereto as Exhibit A.

² It also appears that Mr. DuLaurence may well be representing his fellow plaintiff and roommate as there appears to be no distinction in his filings from hers. He has not been licensed to practice law for many years and such representation would, of course, be illegal.

COMMONWEALTH OF MASSACHUSETTS
APPEALS COURT

ESSEX COUNTY

No. 2018-P-0452

PAULA CARNELLI & another

v.

BELL AT SALEM STATION & another

BRIEF FOR THE PLAINTIFFS PAULA CARNELLI AND
HENRY J. DULAURENCE, III ON APPEAL FROM THE ESSEX
SUPERIOR COURT, AS A RESULT OF THE TRIAL COURT'S
GRANTING OF THE DEFENDANTS' 12(b)(6) MOTION TO DISMISS
THE PLAINTIFFS' VERIFIED COMPLAINT AND JURY DEMAND, AND
THE FAILURE OF THE TRIAL COURT TO ADDRESS THE PLAINTIFFS'
MOTIONS FOR SANCTIONS BEFORE IT FOR ADJUDICATION

Henry J. DuLaurence, III
Attorney For The Plaintiffs
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APPEALS COURT

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and attorneys' fees in their opposition and Reply (App. U at 148-151a.) to the defendants' motions to dismiss, and the plaintiffs requested sanctions in their Rule 37 motion. (App. N at 118-121a.)

The Court in *Keene v. Brigham and Women's Hospital, Inc.*, 56 Mass. App. Ct. 10 (2002), stated:

Compliance with the rules of civil procedure is not accomplished if the parties make of (rules) some sort of game, and in these days of heavily burdened civil dockets, the courts are not expected to be subjected to that type of abuse which is evident in this case. citations omitted.) Id. at 24.

A. Sanctions Must Be Awarded For *Ad Hominem* Attacks.

Judith D. Fischer in her chapter on "Incivility Resulting in Disbarment, Suspension, or Referral to the Bar" writes:

Incivility can rise to the level of unethical conduct that warrants bar discipline. Applicable rules include Model Rules of Professional Conduct Rule 4.4, which prohibits behavior undertaken for 'no substantial purpose other than to embarrass, delay, or burden a third person', and Rule 8.4(d), which prohibits misconduct that is prejudicial to the proper administration of justice. Thus, lawyers have been subject to bar discipline due to their uncivil conduct. Incivility in Lawyers Writing: Judicial Handling of Rambo Run Amok, 50 Washburn L. J. 365, 372-381 (2011).

1. Reputation.

Attacking a person's reputation is a form of defamation. An *ad hominem* argument is one which attacks the character of the person rather than address the substance of the issue itself. It is calculated to appeal to the person addressed, in this case the judge, with the fallacies of irrelevance. DuLaurence brought the Federal Civil Rights claim under Federal statutes Title 28 U.S.C. § 455, and Title 42 U.S.C. § 1983, which were enacted just for that purpose. The District Court judge apparently did not believe that the statutes should have been enacted against judges' improper actions, and failed to acknowledge the existence of the Federal statutes.

The U. S. Supreme Court in *United States v. Young*, 470 U.S. 1 (1985), ruled:

[I]nflammatory attacks on the opposing advocate (have) no place in the administration of justice and should neither be permitted nor rewarded; a trial judge should deal promptly with any breach [of this rule] by either counsel. *Id.* at 9.

In *Ransmeier v. Mariani*, 718 F.3d 64, 68 (2d Cir. 2013), the Court stated that *ad hominem* attacks are "offensive" and a potential basis for sanctions. And again in *Thomas v. Tenneco Packaging Co.*, 293 F.3d 1306 (11th Cir. 2002), the

Court stated:

We conclude that an attorney who submits...*ad hominem* attacks directed at opposing counsel is subject to sanctions under the court's inherent power to oversee attorneys practicing before it. Id. at 1308.

DuLaurence spoke with Bar Counsel Torto, who advised him that when case law refers to "opposing Counsel", it not only refers to lawyers, but to opposing pro-se litigants as well. She advised that the type of action perpetrated by defense counsel in the instant case was not only improper pursuant to Mass. R. Prof. C. 8.4 and Rule 4.4 as set out above, but Rule 3.1 and Rule 3.4 as well. (App. BB at 168-169a.)

The SJC *In the Matter of Crossen*, 450 Mass. 533 (2008), stated:

'The license granted by the court requires members of the bar to conduct themselves in a manner compatible with the role of courts in the administration of justice'... Were we to condone any action to the contrary, the integrity of the judicial process would be vitiated'. [One must not employ] conduct to harm the orderly administration of justice...(citations omitted.) Id. at 563-564.

2. DuLaurence practicing law without a license argument

This is another *ad hominem* attack. This issue has

This petition for rehearing is limited to intervening
circumstances of a substantial and controlling effect, and other
substantial grounds not previously presented.

It is presented in good faith and not for delay of the
Court.

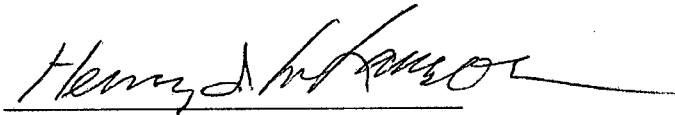
A handwritten signature in cursive script, reading "Henry J. DuLaurence, III". The signature is written in dark ink and is positioned above the printed name and address.

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CERTIFICATE OF SERVICE

I certify that on May 10, 2018, I served a copy of the Petitioner's Petition for Rehearing for his Petition For A Writ of Certiorari, by sending it first class mail, postage prepaid, to:

Erik W. Weibust, Esq.
Seyfarth Shaw LLP
Two Seaport Lane, Suite 300
Boston, MA 02210-2028

A handwritten signature in cursive script, reading "Henry J. DuLaurence, III", written over a horizontal line.

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