

No. 17-8627

In the
Supreme Court of the United States

James Arlotta,
Petitioner,

V.

Cook Moving Systems Inc.,
et al.,
Respondents,

**On Petition For Writ of Certiorari
to the United States Court of Appeals
for the Second Circuit**

PETITION FOR REHEARING

James P. Arlotta
Pro Se Petitioner
P.O. Box 111
Lackawanna, NY
14218
(716)-395-6103

Table of Contents

Page

TABLE OF CITED AUTHORITIES.....	I,II
PETITION FOR REHEARING.....	1-4
FACTUAL & PROCEDURAL BACKGROUND.....	4-6
REASONS FOR GRANTING THIS PETITION.....	6-9
CONCLUSION.....	9-10

TABLE OF CITED AUTHORITIES

<u>Cases</u>	<u>Pages</u>
<i>Abbas v. Dixon</i> , 480 F.3d 636 2 Cir. (2007).....	5,7,8
<i>Arlotta v. Cook Moving Systems Inc.</i> , No. 17-cv-624, (W.D.N.Y., filed 07/2017).....	1-7, 9
<i>Arlotta v. Cook Moving Systems Inc.</i> , No. 17-4084, (2 Cir. 2018).....	3-10
<i>Arlotta v. Cook Moving Systems Inc.</i> 138 S.Ct. 2685 (Mem), 86 USLW 3641.....	9
<i>Bobby Chen v. Mayor and City of Baltimore</i> , 135 S. Ct. 939 (Mem), 190 L.Ed.2d 718, 83 USLW 3578.....	8
<i>Boag v. MacDougal</i> , 454 U.S. 364, 102 S. Ct. 700, 70 L.Ed. 2d 551 (1982).....	7
<i>Capital Yacht Club v. Vessel Avia</i> , D.D.C. 2009, F. Supp. 2d 156.....	7
<i>Chambers v. Time Warner Inc.</i> , 282 F. 3d 147, 51 Fed. R. Sev. 3d 1229, U.S.P.Q. 2d 1761... 8	8
<i>Ciambriello v. Ctny of Nassau</i> , 292 F. 3d 307 (2 Cir. 2002).....	8
<i>Erickson v. Pardus</i> , 551 U.S. 89, 94 (2007).....	8
<i>Estelle v. Gamble</i> , 429 U.S. 97, 106 (1976).....	8
<i>Green v. Bauvi</i> , 46 F. 3d 189 (2 Cir. 1995).....	8
<i>Haines v. Kerner</i> , 404 U.S. 519, 520-21 (1972).....	8
<i>Nietzke v. Williams</i> , 490 U.S. 319, 325 (1989).....	3
<i>New York Compensation Board Case # 89502831</i>	7
<i>New York Compensation Board Case # G1741686</i>	5
<i>Wolff v. McDonnell</i> , 418, U.S. 539, 555-572, 94 S. Ct/ 2963, 2974-2982, 41 L. Ed. 2d 935, (1974).....	7
<i>Zubulake v. UBS Warburg LLC</i> , 220 F.R.D. 212 (S.D.N.Y. 2003).....	4

Statutes

Federal

28 § U.S.C.A. 451.....	4
28 § U.S.C.A. 1331.....	6
28 § U.S.C.A. 1915.....	2,3,5
28 § U.S.C.A. 2101.....	1,3
29 § U.S.C.A. 158.....	1
29 § U.S.C.A. 411.....	1
29 § U.S.C.A. 412.....	1
29 § U.S.C.A. 415.....	1
29 § U.S.C.A. 660.....	4
42 § U.S.C.A. 1983.....	1,6,9
42 § U.S.C.A. 2000.....	1
42 § U.S.C.A. 10802.....	6
42 § U.S.C.A. 10803.....	6
42 § U.S.C.A. 10804.....	6
42 § U.S.C.A. 10805.....	6

State

NY Workers' Comp. § 2.17.....	7
NY Workers' Comp. § 28.....	4,5,6

Rules

<u>Federal</u>	<u>Page #</u>
Fed. R. Civ. P. #4.....	2,5
Fed. R. Civ. P. #12.....	2,8
Fed. R. Civ. P. #15.....	1
Fed. R. Civ. P. #26.....	5
Fed. R. Civ. P. #52.....	3
Fed. R. Civ. P. #58.....	3
Fed. R. App. P. #41.....	1,9
S. Ct. #11	3
S. Ct. #44.....	1,9-10
S. Ct. #45.....	4

Regulations

<u>Federal</u>	
49 E.C.F.R. § 379.3 (2018).....	1
49 E.C.F.R. § 379.5 (2018).....	1
49 E.C.F.R. § 379.7 (2018).....	1
49 E.C.F.R. § 379.9 (2018).....	4

Texts

<u>"Federal Civil Discovery and Disclosure, E-Discovery and Records Management."</u> Grenig, Jay E., Thomson Reuters.....	4
Western District of New York, Pro Se Litigation Guidelines, United States District Court, September 1996, Revised December 2017.....	13
http://www.nywd.uscourts.gov/sites/nywd/files/Pro%20Se%20Litigation%20Guidelines (last visited Aug. 22, 2018).	

PETITION FOR REHEARING

Pursuant to S. Ct. Rule 44, petitioner respectfully petition's this court *Pro Se, In Forma Pauperis*, for rehearing of its June 25, 2018 order denying the writ of certiorari in this docket. After further inquiry and a critical reading of the Fed. R. App. P.; more specifically Rule 41 (2) (D). It has come to this petitioner's attention that the 2 Cir. C.O.A. issued its Mandate on May 31, 2018. When Rule 41 states...

"(D) The court of appeals must issue the mandate immediately when a copy of a Supreme Court order denying the petition for writ of certiorari is filed."

As per S. Ct. Rule 44 due to substantial controlling effects not previously presented before. According to title 28 U.S.C. § 2101 (e)...

"An application to the Supreme Court for writ of certiorari to review a case before judgement has been rendered in the court of appeals may be made any time before judgement."

S.C.O.T.U.S. denied the petition for writ of certiorari on the 25th of June, 2018. As the 2 Cir. C.O.A. issued the mandate *before* the writ of certiorari was denied in S.C.O.T.U.S..

The W.D.N.Y. chief judge in case # 1:17-cv-624, filed on July 7, 2017 against Cook, (now know as Cook Corrigan Moving Systems,) and the International Brotherhood of Teamsters Local 264. For a federal claim regarding 42 U.S.C. § 1983 Deprivation of Civil Rights under Color of Law, 29 U.S.C. §§ 158 Unfair Labor Practices (a), (1-3), (A), (4) (c), 411 Bill of Rights (a) (1), (2), (5), 412 Civil Action for Infringement of Rights; 415 Information to to Members of Provision of Chapter. 49 E.C.F.R. §§ 379.3 2018, Records to be Retained, 379.5 2018, Protection and Storage of Records, 379.7 2018, Preservation of Records, and 42 U.S.C. § 2000e-10 Posting of Notices. Has abused his discretion. Ruling in an irrational manner, the record containing no evidence to support the district court's decision. As decreed in the first "decision and order," on 09/22/2017, containing various self evident discrepancies' ordering this *Pro Se Petitioner* to file an amended complaint. When Fed. R. Civ. P. Rule 15. Amended and Supplemental Pleadings...

"(a) AMENDMENTS BEFORE TRIAL. (1) Amending as a Matter of Course. A party may amend its pleading once as a matter of course within: (B) if the pleading is one to which a

responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.

Rule 12. Defenses and Objections: When and How Presented; Motion for Judgment on the Pleadings; Consolidating Motions; Waiving Defenses; Pretrial Hearing...

“(C) A party must serve a reply to an answer within 21 days after being served with an order to reply, unless the order specifies a different time.”

Evidenced in the Fed. R. Civ. P., specifically Rule 4 Summons. (c) Service, (3) By a Marshal or Someone Specially Appointed.

“The court must so order if the plaintiff is authorized to proceed in forma pauperis under 28 U.S.C. § 1915...”

Chief Judge F. P. Geraci Jr., approved the *In Forma Pauperis* motion on 09/22/2017.

Also, according to Rule 12. Defenses and Objections: When and How Presented; Motion for Judgment on the Pleadings; Consolidating Motions; Waiving Defenses; Pretrial Hearing. Specifically...

“(a) TIME TO SERVE A RESPONSIVE PLEADING. (1) In General. Unless another time is specified by this rule or a federal statute, the time for serving a responsive pleading is as follows:(i) within 21 days after being served with the summons and complaint; or (ii) if it has timely waived service under Rule 4(d), within 60 days after the request for a waiver was sent, or within 90 days after it was sent to the defendant outside any judicial district of the United States. (4) Effect of a Motion. Unless the court sets a different time, serving a motion under this rule alters these periods as follows: (A) if the court denies the motion or postpones its disposition until trial, the responsive pleading must be served within 14 days after notice of the court’s action; or (B) if the court grants a motion for a more definite statement, the responsive pleading must be served within 14 days after the more definite statement is served.”

None of petitioner’s motions were after process of service, (as none was executed,)

According to the *Pro Se Litigation Guidelines United States District Court Western District of New York September, 1996 Revised December, 2017*. Page 13...

“You are required to serve a copy of any motion papers you file in your lawsuit on your opponents, or their lawyers if they have lawyers. The only exception to this rule is when you are filing a motion before your opponents have answered your complaint.”

As is the situation. Since the judge approved the *In Forma Pauperis* motion on 09/22/2017, but did not move the U.S.M.S. to serve process as dictated by 28 U.S.C. § 1915. Also, on 12/18/2017 the chief judge issued...JUDGEMENT IN A CIVIL CASE, CASE NUMBER: 17-CV-624G...Decision by Court...

“This action came to trial or hearing before the Court. The issues have been tried and heard and a decision has been rendered.”

Yet, according to Rule 52. Findings and Conclusions by the Court; Judgment on Partial Findings...

“(a) FINDINGS AND CONCLUSIONS. (1) In General. In an action tried on the facts without a jury or with an advisory jury, the court must find the facts specially and state its conclusions of law separately. The findings and conclusions may be stated on the record after the close of the evidence or may appear in an opinion or a memorandum of decision filed by the court. Judgment must be entered under Rule 58...(c) JUDGMENT ON PARTIAL FINDINGS. If a party has been fully heard on an issue during a non-jury trial and the court finds against the party on that issue, the court may enter judgment against the party on a claim or defense that, under the controlling law, can be maintained or defeated only with a favorable finding on that issue. The court may, however, decline to render any judgment until the close of the evidence. A judgment on partial findings must be supported by findings of fact and conclusions of law as required by Rule 52(a).”

The court’s JUDGEMENT IN A CIVIL CASE...Decision by Court on 12/18/2017 previous statement about the “*decision*,” which went to trial or hearing before the court...where neither party, (plaintiff or defendant were present for the aforestated “court proceeding,”) indicates clearly erroneous findings’ of fact. As evidence was included in the denied motions’, nor was this *pro se* or the *defendant(s)* afforded conference or discovery.

On December 15, 2017 referring to the chief judge’s “decision and order,” petitioner filed his timely Notice of Appearance to the 2 Cir. C.O.A. on 12/21/2017, and 01/12/2018 motion to proceed *In Forma Pauperis* after the first amended complaint in 1:17-cv-624, was *dismissed with prejudice*. The 2 Cir. C.O.A. denied the petitioner’s motions’ for production of discovery, *in forma pauperis*, motion for appointment of counsel, dismissing the appeal for docket# 17-4084, according to Case 17-4084, Document 26, 05/08/2018, 2297563, Page 1 of 1...

“Appellant *pro se*, moves for leave to proceed in forma pauperis, appointment of counsel, and production of discovery. Upon due consideration, it is hereby ORDERED that the motions are DENIED and the appeal is DISMISSED because it “lacks an arguable basis either in law or in fact.” *Nietzke v. Williams*, 490 U.S. 319, 325 (1989); see also 28 U.S.C. § 1915(e).”

As per S. Ct. Rule 11, Certiorari to a United States Court of Appeals before judgement. According to 28 U.S.C. § 2101(e)...

“(e) An application to the Supreme Court for a writ of certiorari to review a case before judgment has been rendered in the court of appeals may be made at any time before judgment.”

and S. Ct. Rule 45 Process; Mandate...

“3. In a case on review from any court of the United States, as defined by 28 U. S. C. § 451, a formal mandate does not issue unless specially directed; instead, the Clerk of this Court will send the clerk of the lower court a copy of the opinion or order of this Court and a certified copy of the judgment. The certified copy of the judgment, prepared and signed by this Court’s Clerk, will provide for costs if any are awarded. In all other respects, the provisions of paragraph 2 of this Rule apply. 2. In a case on review from a state court, the mandate issues 25 days after entry of the judgment, unless the Court or a Justice shortens or extends the time, or unless the parties stipulate that it issue sooner. The filing of a petition for rehearing stays the mandate until disposition of the petition, unless the Court orders otherwise. If the petition is denied, the mandate issues forthwith. 1. All process of this Court issues in the name of the President of the United States.”

FACTUAL & PROCEDURAL BACKGROUND

In the previously stated case for the W.D.N.Y., 1:17-cv-624, judge Geraci had stated in his first “decision and order,” dated 09/22/2017 and his second “decision and order,” dated 12/18/2017 that this petitioner failed to state a claim. He will refer the court to the statutes previously cited on page 1, and 49 E.C.F.R. § 379.9 2018, Companies going out of business.

According to, “Federal Civil Discovery and Disclosure, E-Discovery and Records Management,” Grenig, Jay E., Thomson Reuters, it cites the case...Zubulake v. UBS Warburg LLC, 220 F.R.D. 212 (S.D.N.Y. 2003). Still within the statute of limitations according to NY Workers’ Comp. Law § 28...

“A party or anticipated party must retain all relevant documents...in existence at the time the duty to preserve attaches, and any relevant documents created thereafter;”

The same previous cited law also goes on to state...

“The board may excuse a late notice of injury on behalf of the claimant if the employer had knowledge of the accident,”

As is evidenced by complaint document #1, filed 07/07/2017, #8

“As plaintiff was injured during working hours, plaintiff was fearful of employer’s response due to plaintiff’s injuries that occurred in the company of plaintiff’s fellow employee and heavy truck driver Scott Wilkie. According to 29 U.S.C. § 660.”

Mr. Wilkie witnessed this petitioner be sprayed violently with diesel fuel straight from the pump. That petitioner swallowed, ingested, inhaled, and that was accidentally with the built up pressure and force sprayed into petitioner’s eyes. As all of the fuel pumps were in use and they

all seemed to finish fueling simultaneously. Creating an instantly excessive pressure in the fueling pumps that accidentally sprayed the petitioner. Evidenced by complaint in the W.D.N.Y. case # 1:17-cv-624 document # , filed 07/07/2017, # 9 of the same complaint; petitioner *verbatim* informed his “supervisor,” Frank Gaglione and James Wacowski of this accident referenced through NY Workers’ Comp. Law § 28. Judge Geraci on P. 3 of the aforementioned complaint, document # 9 filed 12/15/2017 paragraph 2 states...

“Plaintiff’s claims are untimely under any statute of limitations and must be dismissed.”

In the case, Abbas v. Dixon, and its decision, (finding that the district court erred by dismissing a *pro se* complaint as time barred *sua sponte* without notice and an opportunity to be heard;) as judge Geraci has made “decisions and orders,” *sua sponte*, without the opportunity for discovery of matters of fact that the petitioner did not have at the precise moment of filing and first amended complaints. Since petitioner is not admitted to any state or federal bars’ ...nor, according to the *Abbas* decision, should this *pro se* been expected, (or any bar admitted legal counsel for that matter,) to have “all the answers,” or evidence in the initial complaint before the court.

Had proper process of service been executed according to 28 U.S.C. § 1915, and Fed. R. Civ. P. Rule 4 Summons, (c) Service. (3) By a Marshal or Someone Specially Appointed...

“The court must so order if the plaintiff is authorized to proceed *in forma pauperis* under 28 U.S.C. § 1915.”

Also, according to Fed. R. Civ. P. Rule 26 (a) Required Disclosures. (1) Initial Disclosure. (A) In General. The chief judge never referred to this rule at any time in his “decisions and orders.”

The federal causes of action are not time bared, regarding NY Workers’ Comp. Law § 28's effect. Petitioner filed his claim, NY Workers’ Comp. Board Case No.: G1741686, date of accident 09/30/2002, date of assembly: 07/05/2017; the federal complaint was filed on 07/07/2017 dictating conjunctural-antithesis of pendent state, (and more specifically,) federal jurisdiction. Due to Cook Corrigan Moving Systems Inc., I.B.T. Local 264's reluctance to follow

NY Workers' Comp. Law § 28, actionable under 42 U.S.C. § 1983, and their blatant inactions' relegating 28 U.S.C. § 1331 Federal Question. Just like P. 3 of the W.D.N.Y. case# 17-cv-624 Decision and Order...

"Although the statute of limitations is an affirmative defense, dismissal is appropriate when the facts supporting the statute of limitations defense are set forth in the papers the plaintiff submits."

He went on to write...

"Moreover, the court's prior Decision and Order (ECF No. 4) informed the plaintiff of the statute of limitations defect and gave him an opportunity to amend his complaint. See *Abbas*, 480 F. 3d at 640, (finding that the district court erred by dismissing a pro se complaint as time-barred *sua sponte* without notice and an opportunity to be heard);

in persona non, or grata.

REASONS FOR GRANTING THIS PETITION

Psychological liberties' ignored and lost evidenced by the W.D.N.Y.'s and 2 Cir. C.O.A.'s ignoring 42 U.S.C.A. Chapter 114 Protection and Advocacy for Individuals with Mental Illness Sub-Chapter I- Protection and Advocacy Systems §§ 10802 (4), (A), (ii). 10803 Allotments (1), (2), (A). 10804 (c), (d). 10805 (a), (c), (I), (ii). Protection and Advocacy for individuals with mental illness. Regarding this petition for rehearing before this court. As Due Process was denied this *pro se litigant-appellant*, in a clearly erroneous bench trial in the W.D.N.Y..

The highly questionable behaviors by the various defendant(s) and respondent(s) constitute, ("medically, vocationally, and societally speaking,") psychiatric and psychological seizure of liberties by the aforementioned. Also, the various mental health and other professionals', needlessly extending more, "time in treatment." At the taxpayers' expense wasting valuable government resources. Through stigmatization because of mental health disorders, (illnesses,) and *disabilities profiling* by defendant(s) and respondent(s) illegal behaviors' leading to NY State's seizure of petitioner's psychological and actual liberties and freedoms. As the State University College at Buffalo, (first facilitated by Hilbert College

Counseling Center Director Phyllis Dewy in the spring semester of 2001.) Concluding with Buffalo State College's Weigel Health Center. Through Dr. Wendell P. Rivera LCSW-R thoroughly helpful mental health counseling sessions. Preceded by Dori R. Marshall M.D.'s first generation anti-psychotic regularly scheduled dosages of Haloperidol.

Petitioner's former treating psychologist Dr. Lisa Brothwell's sequelaeic opinion, and her and this petitioner's agreement that no further therapeutic treatments were needed anymore at that time. Attest to how we the "civilized society," not acknowledge all persons' Constitutionally Protected Psychological Liberties. As this petitioner is a veteran-disabled worker collecting S.S.D.I. benefits for non-service connected mental health issues. I.e., major depressive disorder, seasonal affective disorder, social anxiety disorder and generalized anxiety disorder. Caused in large part by the occurrences at Cook Corrigan Moving Systems. According to NY Workers' Comp. Law § 2.17 Mental Injury, also stemming from NY Workers' Comp. Board Case# 89502831, (where petitioner was physically assaulted by "fellow employee," Daniel Buchholtz, [yet it was reported as an accident]. Him breaking petitioner's front tooth on 05/31/1995 or 06/01/1995, as reported to West Seneca NY Dentist Dr. Robert Peet. The matters not being properly reported to the Orchard Park Police Department as assault.

Referring back to the *Abbas* case, even though his honor cites this case. Regarding how the district court erred when it dismissed a *pro se* complaint *sua sponte*. Considering that Mohamed Abbas was a prisoner...*he still had the opportunity to be heard in person*. This *Pro Se* Petitioner was never afforded an *in persona grata* hearing of any kind, and was not a prisoner at time of filing. As docket history of the W.D.N.Y. case 17-cv-624 will prove so.

"Reading plaintiff's submission's liberally."

As judge Geraci cited previously. "Liberally Speaking," *Boag v. Mac Dougall*, 454 U.S. 364, 102 S. Ct. 700, 70 L. Ed. 2d 551 (1982)..:

"We need not address the permissible contours of the Court of Appeals first conclusion, for its second conclusion is erroneous as a matter of law. Construing petitioner's inartful pleading liberally, as in *Haines v. Kerner*, 404 U.S. 519, 92 S. Ct. 594, 30 L. Ed. 2d 652, (1972,) instructs federal courts to do in *pro se* actions, it states a cause of action. See *Wolff v. McDonnell*, 418, U.S. 539, 555-572, 94 S. Ct. 2963, 2974-2982, 41 L. Ed. 2d 935, (1974). On the basis of the record before us, we cannot find a sufficient ground for affirming dismissal of the complaint."

In *Capital Yacht Club v. Vessel Avia*, D.D.C. 2009, F. Supp. 2d 156...

“...a district court is required to notify the client before dismissing a case with prejudice because of attorney misconduct pursuant to a deterrence rationale...” as in *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (emphasizing that “[a] document filed pro se is to be liberally construed”); *Estelle v. Gamble*, 429 U.S. 97, 106 (1976) (same); *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972) (same), from S. Ct. 939(Mem), 190 L. Ed. 2d 718, 83 USLW 3578...cited from U.S. Docket No-13-10400.

This petitioner is a *pro se litigant-appellant*, but judge Geraci neglected to afford him the same reasonable allowances as in the previous discussions’ of the *Abbas* case...

“Because Abbas filed his complaint pro se, we must liberally construe his pleadings, and interpret his complaint to raise the strongest argument *it suggests*... The policy of liberally construing pro se submissions is driven by the understanding that “[I]mplicit in the right to self-representation is an obligation on the part of the court to make reasonable allowances to protect pro se litigants from inadvertent forfeiture of imported rights because of their lack of legal training.”

Yet, this petitioner *is pro se*, but judge Geraci neglected to afford him the same reasonable allowances, but rather he ordered, (as it is this pro se’s *allowant understandings*’ from the *Abbas* case). Ciambriello and Chambers identify how procedural due process, with property and liberty interests’, in their discussions further illustrate how judge Geraci’s court and the 2 Cir. C.O.A. have ignored the facts...

“We review de novo a district court’s dismissal pursuant to Rule 12 (b) (6)...Accepting all factual allegations in the complaint as true, the court should not dismiss unless Ciambriello can prove no set of facts which would entitle him to relief...”

Chambers v. Time Warner Inc. 282 F. 3d 147, 51 Fed. R. Sev. 3d 1229, 61 U.S.P.Q. 2d 1761...

“I We review de novo a district court dismissal of a complaint pursuant to 12 (b)(6), construing the complaint liberally, accepting all factual complaints as true, and drawing all reasonable inferences in the plaintiff’s favor. ‘Dismissal is inappropriate unless it appears beyond doubt that the plaintiff can prove no set of facts which would entitle him or her to relief,’”

According to *Green v. Bauvi* 46 F. 3d 189 (2 Cir. 1995,)

“P. 194 II Discussion, [2-4] establishes protected liberty interests for prisoners...”We have previously held that a prisoner has a protected liberty interest...the inmate is entitled to a hearing with various procedural safeguards...”

Explicating from the perspective of the evidence to be discovered, (and that already

there,) in W.D.N.Y. case 17-cv-624, in P. 2 of its DECISION AND ORDER. Judge Geraci writes about the amended complaint suffering the same defect as to in his 12/15/2017 DECISION AND ORDER...

“Plaintiff’s Amended Complaint suffers the same defects as his original Complaint: (1) he cannot sue private actors pursuant to 42 U.S.C. § 1983; (2) any potential causes of federal action that he may have appears to be time-barred under any relevant statute of limitations.”

From pages 2,3 of 17-cv-624 document # 4 filed 09/22/2017. Chief Judge Geraci writes in the 3rd paragraph that,

“...there are several problems with the Plaintiff’s Complaint,”

It is this petitioner’s understanding that logical deduction would dictate that any reader could then find seven problems. Yet, the judge concentrates only on 2 in his decision and order. First, he fixate’s the reader on the fact that 42 U.S.C. § 1983,

“..only provides a cause of action against those acting under color of state law.”

If we read directly the previous cited U.S.C. statute, in its annotation, title 42 U.S.C.A. § 1983, as the main contention establishing a state and federal claim...

“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 or 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 proceedings for redress,”

The judge only concentrates on the latter part of the statute.

CONCLUSION

From the aforestated evidenced logically stated rationale, this petitioner has competently, cognizantly, of good conscience. Established that S.C.O.T.U.S. grant the petition for rehearing, and reverse the denial of writ of certiorari. Pursuant to S. Ct. Rule 44, petitioner respectfully petition’s this court Pro Se, *In Forma Pauperis*, for rehearing of its June 25, 2018 order denying the writ of certiorari in this docket. 17-8627. After a close reading of Fed. R. App. P. Rule 41 (2)

(D). It has come to this petitioner's attention that the 2 Cir. C.O.A. issued a Mandate in docket # 17-4084 on May 31, 2018. When Rule 41 states...

"(D) The court of appeals must issue the mandate immediately when a copy of a Supreme Court Order denying the petition for writ of certiorari is filed."

Rule 45 of the S. Ct. States...

"Process; Mandate (3) "In all other respects, the provision of paragraph 2 of this rule apply. (2) The filing of a petition for rehearing stays the mandate until disposition of the petition. If the petition is denied, the mandate issues forthwith."

Afford Supreme Court of the United States docket# 17-8627 the rehearing it deserves.

Respectfully Submitted,


James P. Arlotta

Pro Se Litigant-Appellant

P.O. Box 111

Lackawanna, NY 14218

(716)-395-6103

arlojp24@mail.buffalostate.edu

August 21 , 2018