

No.

In the Supreme Court of the United States

YAROSLAV S. SKLYARSKY

Petitioner

V.

CHARLES P. KOCORAS,

Judge of U.S. District Court for Northern District of Illinois,

Individually and in his official capacity

Respondent in Case No. 17-3094

On Petition for a Writ of Certiorari

To the United States Court of Appeals

For the Seventh Circuit

PERTION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

In July 2014, district court granted summary judgment in favor defendant and dismissed plaintiff's (Yaroslav Sklyarsky) civil action about intentional employment discrimination and wrongful termination. Plaintiff appealed in U.S. Appeal Court for Seventh Circuit (Seventh Circuit) about district court judge Charles Kocoras's erroneous decisions upon administrating of this civil action.

In January 2015, Seventh Circuit affirmed the district court's judgment about dismissal of the case upon procedure of summary judgment. In a bout of July 2017, when Sklyarsky learned appropriated laws and rulings of the U.S. high courts and previous filed documents with the district and the appeal courts, he discovered that judge Kocoras was not erroneous in the case, but he was who willfully falsified and distorted the material facts presented in the courts' filed original documents and was in conspiracy with defendant that caused depriving of Sklyarsky of his constitutional rights under 1st and 14th Amendments due to depriving lawlessly of him of his rights for the court trial because judge Kocoras's lying as violation of his "Oaths of Judge" that caused his willful violation of the U.S. Constitution under Art. VI.

This Petition is about unprecedented fact when district court and the Appeal Court for Seventh Circuit are factually sabotaging of plaintiff suing of district court judge for his willful violation of the U.S. Constitution under Art. VI and of 42 U.S.C. § 1985 (3) due to his lying and distorting undisputed facts, and being in conspiracy with the defendant, upon conducting of the plaintiff's previous civil action that caused deprivation of Sklyarsky of his constructional rights under 1st and 14th Amendments, because both courts willfully distorted, upon of their considerations of Complaint and explanations to their Orders, of the Sklyarsky's original claims about the judge Kocoras's committed violations of the U.S. laws on as the judge's "unconstitutional rulings" that gave for them possibility to explain of their lawless judgments

about dismissal of Sklyarsky's case about Kocoras's suing in filed "*Biven Action*".

This Petition have to be considered because it is about unique case, where Plaintiff filed civil action against federal district judge about *Biven Action* for suing of the judge for his violations of the U.S. Constitution and other law that deprived of Plaintiff of his constitutional rights under 1st and 14th Amendments, and district court's judge and judges of appeal courts did incorrect judicial actions about dismissal and affirmation of dismissal of Plaintiff's Complaint on stage of screening Complaint, which actions look as procedurally erroneous but are absolutely unbelievable that they erroneous.

1. Whether district court and appeal court abused due process due to both courts' using for their consideration apparently visible distorted by both courts of factual pleaded claims instead of original ones presented in Plaintiff's Complaint and in his appealing that resulted unjust dismissal of Complaint upon procedure of the district judge's own initiated screening of Complaint and its affirmation upon of the appeal court's review of Plaintiff's opening brief?
2. Whether district and appeal court were erroneous when Plaintiff's pleadings in Complaint about suing district judge in *Biven Action* and his arguments in appealing brief about the district court erroneous dismissal case against of the judge that was about the judge's willful using lie and about the judge's being in conspiracy with defendant in Plaintiff's previous case that were claimed by Plaintiff as the judge's violation of the Constitution and law that caused deprivation of Sklyarsky of his constructional rights under 1st and 14th Amendments, because both courts determined incorrectly that claims were about the judge's "unconstitutional actions" preformed within the judge's jurisdiction.
3. Whether appeal court was erroneous when admitted beginning to run limitation period for time of filing *Biven Action* against district judge from date when appeal court affirmed judgment

of this district judge about appealed of the judge's erroneous decisions in Plaintiff's previous case, while the same Plaintiff, in new filing case, pleads that he was injured later when he gotten knowledge and discovered that the judge's decisions was not his error but was his willful violations of the U.S. Constitution under Art. VI (violation of "Oaths of Judge").and other law that caused deprivation of Plaintiff's constructional rights under 1st and 14th Amendments.

4. Whether federal judge is losing jurisdiction if he or she is violating of the "Oaths of Judge" under Art. VI of the U.S. Constitution upon commitment of judicial actions because is using lie or willful falsification of material facts?

PARTIES TO PROCEEDING

All parties are presented in captions.

CHARLES P. KOCORAS, Respondent, judge of U.S. District Court for Northern District of Illinois ("judge Kocoras") in his individual and in his official capacity, assigned district judge for Plaintiff in civil action about Plaintiff's (Sklyarsky's) employment discrimination in case No. 13-cv-00859.

YAROSLAV S.SKLYARSKY, Plaintiff-Petitioner, *Pro Se*, 68-year naturalized citizen of the U.S. from 2004, arrived in the U.S. in 1999 from Ukraine, possesses of master degree in electrical engineering from 1973, possesses limitedly of English language - reads and writes with help dictionary, is working as cleaner of offices in Chicago, married and has two adult children, resident of Chicago, Illinois.

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IN THE SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT CERTORARI

Yaroslav S. Sklyarsky, *Pro Se* Plaintiff -Petitioner, respectfully petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Seventh Circuit in this case.

OPINION BELOW

The opinion of the United Court of Appeals appears in Appendix A, App. 1a-2a to the petition is not reported.

The opinions of United States district courts appear in Appendix B, App. 3a-8a to the petition are not reported.

JURIDICITION

The judgment of court of appeal entered on February 05, 2018, Appendix A, App. 1a-2a

The jurisdiction of this Court is involved under 28 U.S. C. §1254(1).

STATUORY PROVISIONS INVOLVED

28 U.S. C. §1331, provides in pertinent part:

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

Section 1985(3) of Title 42 of the U. S. Code provides in pertinent part:

DEPRIVING PERSONS OF RIGHTS OR PRIVILEGES

If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws;

...in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

Article VI of the U.S. Constitution, provides in pertinent part:

All executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

The U.S. Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

5 U.S. C. § 3331 - Oath of office, provides in pertinent part:

An individual, except the President, elected or appointed to an office of honor or profit in the civil service or uniformed services, shall take the following oath: "I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God." This section does not affect other oaths required by law.

28 U.S. C. § 453 - Oaths of justices and judges, provides in pertinent part:

Each justice or judge of the United States shall take the following oath or affirmation before performing the duties of his office: "I, _____, do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as _____ under the Constitution and laws of the United States. So help me God."

First Amendment of U.S. Constitution, provides in pertinent part:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Fourteenth Amendment of U.S. Constitution, provides in pertinent part:

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.

Sec. 13-205 of 735 ILCS 5/13-205 Five year limitation, provides in pertinent part:

Except as provided in Section 2-725 of the "Uniform Commercial Code", as amended, actions on unwritten contracts, expressed or implied, or on awards of arbitration, or to recover damages for an injury done to property, real or personal, or to recover the possession of personal property or damages for the detention or conversion thereof, and all civil actions not otherwise provided for, shall be commenced within 5 years next after the cause of action accrued.

§ 1915 of 28 U.S.C. Proceedings in forma pauperis, provides in pertinent part:

- (a) (1) Any court of the United States may authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets such prisoner possesses that the person is unable to pay such fees or give security therefor. Such affidavit shall state the nature of the action, defense or appeal and affiant's belief that the person is entitled to redress.
- (e) (2) Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that—
 - (A) the allegation of poverty is untrue; or
 - (B) the action or appeal—
 - (i) is frivolous or malicious;
 - (ii) fails to state a claim on which relief may be granted; or
 - (iii) seeks monetary relief against a defendant who is immune from such relief.

STATEMENT

This case present disclosure of extremely rare and unprecedented fact of violation of the principle of the “Rule of Law” warranted by the U.S. Constitution and disclosure of sabotage and abuse process by district and appeal courts from Northern District of Illinois because of the Plaintiff's –Petitioner's attempt to sue of district court's judge for blame of depriving of Plaintiff of his constitutional rights under 1st and 14th Amendments of the U.S. Constitution due to causing for him: (a) factual abridging “to petition the government for redress of grievances” , (b) denying factually of “the equal protection of the laws” that the judge's lawless depriving of plaintiff of rights for having the court trial in previous filed civil action that was dismissed by the district judge upon procedure of summary judgment because of the judge's using lie and distortions of material facts, and the judge's being in conspiracy with defendant in the judge's administrating case that has been the judge's violations of the U.S. Constitution under Art.VI (willful violation of the “Oaths of Judge” accordingly to 5 U.S.C. §3331 and 28 U.S/C. §453), and violation of 42 U.S.C. §1985(3) (conspiracy).

The main means that used both federal courts, district and appeal courts, for sabotage of suing of federal court's judge Kocoras for his violations of the laws upon of his performing

duties outside of this official judicial capacity because of his lying and being in conspiracy with defendant were the both courts' keeping silent about Plaintiff's (Sklyarsky's) original pleaded claims in his Complaint about the judge's violations of the U.S. Constitution and other law on the courts' willful substitution of the original claims on so-named by them as "unconstitutional rulings" or similar ones. Therefore, all other the courts' stated opinions and rulings concerned consideration of the Complaint are apparently incorrect because they are consequences of primary incorrect legal base. The second means that used both federal courts for hiding wrong dismissal of the Complaint upon its screening under Fed. R. Civ. P. 12(b)(6) was fact that they used premature analysis of merit of the claims in the Complaint instead of analysis of merit of the pleading in it in accordance to legal standard for motion under Fed. R. Civ. P. 12(b)(6). These district and appeal courts' incorreced opinions and rulings in Plaintiff's suing of the district court's judge disclosed questions for resolving by this Court. The third means that used by both courts for hiding from public of their made wrong judgments was their absolute silence in their Statements to their Orders (App.1a-2a and App.3a-7a) about second Sklyarsky's claim that was about the judge Kocoras's conspiracy with the defendant due to his violation of 42 U.S.C. §1985(3), disclosed on facts of the judge's numerous lawless rulings in Plaintiff's previous case.

A. Statutory Background.

The section 1331 of 28 U.S. C. provides that district court has jurisdiction of all civil actions arising under the U.S. Constitution and laws. Plaintiff, whose previous "Complaint of Discrimination" was dismissed by district judge Kocoras upon procedure of summary judgment, filed Complaint under jurisdiction of named above law in the same district court for suing of the district court judge in his individual and official capacity, who administrated Plaintiff's

previous case, by pleading and claiming due to Plaintiff's discovery that district court judge Kocoras willfully used lie that was his distortion, falsification, and fabrication of material facts in his released factfinding that constituted violations of his the "Oaths of Judge" or of the U.S. Constitution under Art. VI that caused violation of Plaintiff's constitutional rights under 1st and 14th Amendments.

District court judge Harry D. Leinenweber dismissed the Complaint about so-named "*Biven Action*"¹ against judge Kocoras upon his screening of the Complaint under his own initiated motion due to his stated reason – "*for failure to state a claim under Fed. R. Civ. P. 12(b)(6)*". The appeal court affirmed of district court's judgment for dismissal of the Complaint due to its statement with uncertain disclosure that "*claims would be time-barred as filed beyond the applicable two-year statute of limitations*", even though the *Biven Action* about mental injury does not have two-year statute of limitation in state Illinois; and due to its apparently unappropriated statement that presented claim is related to his previous case [*Sklyarsky v. Means-Knaus Partners, L.P.*, 777F.3d 892 (7th Cir. 2015)] and due to its incorrect determining of date for beginning to count limitation period for filing of civil action in district court.

Therefore the decisions and explanations to them of the district and appeal courts about dismissal of Complaint against judge Kocoras are apparently unclear, uncertain, and contain some internal courts' conflict of interests and inconsistent legal base; and, so that, the involvement of present Court in resolution of disclosed questions is extremely needed.

B. Factual Background.

In January 2013, Plaintiff (Sklyarsky) was terminated from work, who had worked on

¹ *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388 (1971)

position of janitor for the same building in downtown , Chicago, for about 12 years due to employer false allegation with its using fabricated causes for hiding of its true reason for termination that really was the employer's retaliation for Sklyarsky lawfully expressed opposition against of his intentional discriminatory employment treatment and against violation of his contractual rights warranted by collective bargaining agreement (CBA).

In February 2013, Sklyarsky filed "Complaint of Discrimination against of his Employer – Harvard Maintenance Inc. (Harvard) with claiming of intentional discrimination (under 42 U.S.C. § 2000e *et seq.* and 42 U.S.C. § 1981) and wrongful termination in violation of the CBA, and district judge Charles P. Kocoras was chosen for administrating of case No. 13-cv-859 in the District Court for Northern District of Illinois.

The Sklyarsky's possessed circumstantial facts and his presented pleadings in Complaint supported by undisputedly credible evidence were so cogent that Employer did not any chance for just defense from recognition of its violations. Therefore, the Employer used apparent lie and distortions of undisputed material facts under judge Kocoras's silent allowance for such defense and judge Kocoras was using lawless procedural rulings for purpose to give favor for Employer due to his conspiracy with Employer's Attorney.

In April 2013, judge Kocoras dismissed Complaint without prejudice for his reason that was grounded on apparent false cause stated by him that was his request for Sklyarsky to obtain one more "Notice of Rights to Sue" from EEOC. Further, upon proceeding of the case, defendant produced numerous different false allegations, including bold lie, in its verbal and written motions and judge Kocoras used them for issuing of apparently lawless rulings, in which ones the judge did not even have of procedural discretions, for purpose to cause of Sklyarsky to drop case or preclude of him to develop of it and to build proof of his claims.

And, finally, in July 2014, judge Kocoras dismissed the case upon procedure of summary judgment. Sklyarsky appealed this final judgment as district court's erroneous judgment , and , in January 2015, the U.S. Appeal Court for Seventh Circuit ("Seventh Circuit") affirmed fully of district court's judgment, even though the Sklyarsky's claim about "wrongful termination" was not requested by defendant for the dismissal of it and consequently was not decided by district and appeal courts but was dismissed by both courts without even mention about this claim. Also, upon proceeding of the case and considering of both parties motions, judge Kocoras did not react almost at all on Sklyarsky's arguments supported by credible documentary evidence and on his numerous rebuttals of defendant's apparently false allegations accompanied by the judge's behavior like as Sklyarsky did not present of any argumentation at all; but, instead, judge Kocoras admitted almost all defendant's allegations, even some ones from them were impossible from point of view of Earth nature or were apparently unbelievable as true proper arguments for his admission as material facts for using as legal ground for his rulings and making judgments but have resulted of the defendant's favor. Moreover, judge Kocoras ignored by his silence of numerous fundamental documentary evidence such as, for example, as Sklyarsky's covered employment contract that is collective bargaining agreement signed by Sklyarsky's Union - Local 1 SEIU and by Association of janitorial employers of Chicago named as BOMA/Chicago. As summary about judge Kocoras's administrating of the case about Sklyarsky's discrimination and retaliation, it can be to underlined of two his wrongdoings - (a) his incorrect procedural rulings in favor Sklyarsky's defendant as indirect proof about conspiracy with the defendant, and (b) his using distortions of undisputed facts presented in documentary evidence presented even by defendant itself or by third parties, or his silence about Sklyarsky's filed arguments and circumstantial facts, or his some own fabrications.

In Sklyarsky's previous case, the Seventh Circuit, due to its explanation for its affirmation of judge Kocoras's judgment, did not find that the district court's judgment about dismissal case upon procedure of summary judgment is erroneous because it fully admitted as true, without review de *novus*, as Sklyarsky asked, of judge Kocoras's revealed factfinding and his application of the laws in his written "Opinion" to final judgment. In about July 2017, after Sklyarsky's investigation of documents filed in Records of the district and appeal courts and his learning of the appropriated laws, Sklyarsky discovered that judge Kocoras was not erroneous in the administrating case but he was willfully violated of the U.S. Constitution under Art. VI, motivated by his discriminatory animus to Sklyarsky's national origin and race –Ukrainian for purpose of retaliation for Sklyarsky's filed action for defense of his civil rights that caused deprivation of his constitutional rights under 1st and 14th Amendments. Consequently, on July 25, 2017, Sklyarsky filed *Biven Action* against of federal judge Charles P. Kocoras grounded on facts of judge Kocoras's willful violation of the U.S. Constitution and of 42 U.S.C. §1985(3) upon performing duties but acting outside of his judicial capacity in case No. 13-cv-859, which facts are excerpted and are presented partly in documents filed with the district and appeal courts about the *Biven Action* against judge Kocoras.

C. Proceeding in District Court.

After Sklyarsky discovered, in about July of 2017, that district judge Kocoras's wrongdoings in his previous case was not procedural errors or erroneous rulings or judgments; on July 25, 2017, Sklyarsky filed with district court "Complaint about Deprivation of Federal Constitutional Rights (*Biven Action*) under 28 U.S.C. §1331 and Violation of 42 U.S.C. §1985(3)" for suing judge Kocoras individually and in his official capacity for seek redress for violation of Plaintiff's constitutional rights guaranteed to him by 1st and 14th Amendments due to

the judge willful violation of U.S. Constitution and 42 U.S.C. §1985(3)"² upon performing duties but acting outside of his judicial capacity. In the Complaint, Sklyarsky asked for granting monetary damages (compensatory and punitive) for judge Kocoras's created injury as defendant in his individual capacity, and for declaratory relief for the court's procedural violation because of judge Kocoras's making actions, by acting in his official capacity upon of his losing of jurisdiction over the case for right to issue final judgment due to violation of his "Oaths of Judge" (Violation of the U.S. Constitution under Art. VI).

In the Complaint and attached to it a few documentary credible evidence, Sklyarsky presented not only perfect pleadings of two claims in full adequacy to requirements of legal standard for survive of the dismissal of complaint under motion grounded on Fed. R. Civ. P. 12(b)(6) ; but he , also, (a) presented almost complete direct proof about the judge's willful using lie in his released admitted material facts of factfinding for procedure of summary judgment, which the Sklyarsky's disclosure has become his support for his 1st claim that was about the judge's willful violation of the U.S. Constitution, and (b) presented sufficient indirect proof about the 2nd claims that was about the judge's conspiracy with the defendant grounded on their discriminatory animus against Sklyarsky by disclosing of numerous judge Kocoras's unjust non-procedural rulings for defendant's favor , which legal ground for 2nd claim of the Complaint was discovered by Sklyarsky in about July 2017 due to his study and analysis of documents filed with district and appeal courts in his previous case.

Also, at the same time as was filed Complaint about *Biven Action*, Plaintiff filed motion to proceed in *forma perpuries* , which one was not considered by district court during about two

² Section 1985(3) merely states that "the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against of the conspirators".

months, until the court had not dismissed Complaint, on 09/18/2017, without allowance of serving of it to defendant.

In the Complaint and attached to it of some documentary credible evidence, Sklyarsky also presented circumstantial facts as undisputable direct support of his pleadings about judge Kocoras's using willful lie for making judgments and presented sufficient material facts that supported indirectly of his pleading about judge Kocoras's conspiracy with the defendant. Therefore, none the district court neither the appeal court, accordingly to their statements to their Orders (App. 1a-8a), could not find any contradicted argument or event doubt about judge Kocoras's lying or his conspiracy; because of seeing of cogent argumentation in Complaint and appealing brief, and seeing of existence of documentary undisputable evidence filed in Plaintiff's previous case. Consequently both courts, for purpose to protect judge Kocoras from suing, used unappropriated and improper procedural rulings for dismissal of Complaint without serving of it to Defendant and to U.S. Attorneys, which facts about the courts' improper and unappropriated rulings are disclosed below.

As it was stated above, District Court dismissed Sklyarsky's Complaint with prejudice due to its own motion based on screening of the Complaint, accordingly to the court's Statement to final judgment (App.App.3a-8a) - "*for failure to state a claim under Fed. R. Civ. P. 12 (b) (6)*", without of presenting of its own arguments or reasons of considering motion for dismissal of a complaint under "Legal Standard" for it concerned of requirements of Fed. R. Civ P. 12(b)(6) for such action concerned of factual Sklyarsky's pleadings in the Complaint. Instead, District Court provided of some set of citations from rulings of the higher courts in different cases where were considered judges' wrongdoings upon performing of their duties that were determined as "*violation of judicial procedure*", "*procedural misconduct*", "*procedural errors*",

“unconstitutional conduct”, ect.; and Judge Leinenweber, in his Statement, only imagines or speculates about determination them as *“Judge Kocoras’s substantive and procedural rulings”*, his (Kocoras’s) *“allegedly wrongful act”*, or *“procedural misconduct and pernicious conspiracy”* with using of the alluding to his used citations taken from cases laws that have nothing common with Sklyarsky’s original pleaded claims about judge Kocoras’s willful violations of U.S. Constitution under Art. VI and 42 U.S. C. § 1985 (3) that caused of deprivation of Sklyarsky of his constructional rights under 1st and 14th Amendments due to depriving of Sklyarsky rights for having court trial, ect.. Judge Leinenweber did not and he could not deny of facts about Kocoras’s lying because it is documentary proved fact in the Complaint, e.g., fact that Kocoras did not admit the CBA named as *BOMA/Chicago – Local 1 SEIU Janitorial Agreement* as applicable Sklyarsky’s employment contract (Comp. pp.10-17). Also, judge Leinenweber does not provide any arguments and even does not do any statements about his unbelief about Kocoras’s lie and his conspiracy, but he imposes only assumption about alleged judge Kocoras’s violations of the laws as, e.g. *“violation of judicial procedure”*, which assumption is apparently improper. Consequently, all judge Leinenweber’s statements, concerned main fundamental issues of the Complaint, disclosed in his Statement (App. 3a-7a), are grounded on judge Leinenweber’s willingly improper determination or willingly distortion of Sklyarsky’s original pleaded claims in Complaint, which really are about judge Kocoras’s violations of the laws but not about *“unconstitutional conduct”* stated as summary by judge Leinenweber. Additionally, all judges Leinenweber’s used implementations to present case citing in his Statement to Order for dismissal of Complaint (App. 3a-7a), that are rulings and statements of the U.S. higher courts that have concern of: (1) lost immunity of judges to be sued, (2) judges’ losing jurisdiction to conduct cases, (3) barring of granting for victim of

judge's violations of (a) of declaratory relief for judge's liable in official capacity, (b) of compensatory and punitive damages in judge's liability in personal capacity; were improperly speculated by the judge Leinenweber and they were really not suitable and not applicable for Sklyarsky's claimed "Biven Action" in Complaint used for the suing of judge Kocoras, and it is first judge Leinenweber's fundamental error.

Judge Leinenweber, as it visible from his Statement, did also second fundamental error upon screening of Complaint. The judge, instead of considering of Sklyarsky's original pleadings in the Complaint for determination of adequacy of pleadings and its sufficiency and merit to survive of it from dismissal under "Legal Standard" used to Fed. R. Civ.P.12 (b)(6), he did decision about dismissal of the Complaint grounded on his belief that judge Kocoras has absolute immunity to be sued for any committed action upon performing duties, even of despite of fact that this action was out of scope of his jurisdiction. It is undouble that judge Leinenweber has known that judge's using lie and conspiracy upon performing duties are not actions of a judge's professional duties but is violation of the U.S. Constitution and the law. However, he stayed silent about the judge Kocoras's violations because in the contrary, it would be apparently visible of judge Leinenweber's willingly wrong judgment for purpose to protect judge Kocoras from suing for violations of the laws.

Also, as one more Judge Leinenweber's reason and sole reason of the appeal court for dismissal of Complaint were their the same statements about Sklyarsky's failure of two-years limitation of period for claiming of civil action from time of occurring of the injury that was improperly calculated by both courts as from date of January 2015 that was date when the Seventh Circuit affirmed judge Kocoras's dismissal of Sklyarsky's previous case appealed by Sklyarsky as district courts's erroneous judgment instead of factual date of Sklyarsky's injury

and damages from violations that was his emotional injury or mental injury and monetary damages stated by him as about July 2017 – date when Sklyarsky factually discovered that the dismissal of his previous case was not judge Kocoras's error but his willful violations of the laws. See Statement (App.3a -7a). Moreover, accordingly to Sec. 13-205 of 735 ILCS 5/13-205³ from state Illinois's legislation and accordingly to federal courts' existing adopted judicial practice in state Illinois, there must be used - five-years limitation period for combined claims concerned of Civil Rights Act about mental or emotional injury and about caused material damages arisen from judge's committed so-named *Biven Action* and judge's conspiracy that is the judge's suing in his individual and official capacity.

Later, on October 10, 2017, together with "Notice of Appeal", Sklyarsky filed with district court motion for proceeding in appeal court IFP, which was denied by judge Leinenweber despite fact that this motion was accompanied by Sklyarsky's Affidavit (Form AO 239), where he shown under penalty of perjury that he cannot pay docketing fees due to his poverty that was legally disclosed as sufficiently for granting motion due to its compliance under 28 U.S.C. 1915. As it visible from above, judge Leinenweber abused his procedural discretion that has effect of deprivation unlawfully of Sklyarsky of due process rights as provided by the Fourteenth Amendment of the United States Constitution. A judge may have discretion to using of the Rule. but judge does not have discretion to violate the Law. The presented by judge Leinenweber arguments, in his explanation about denial of the proceed "IFP", did not give him rights for this denial under conditions presented in 28 U.S.C. 1915(e) (2) for such denial.

D. Proceeding in Appeal Court and its Decision.

³ For claimed *Biven Action*, Sec. 13-205 of 735 ILCS 5/13-205 contains appropriated provision –“ ...and all civil actions not otherwise provided for, shall be commenced within 5 years next after the cause of action accrued”

On 10/10, 2017, Sklyarsky filed "Notice of Appeal" and motion with attached Affidavit (Form AO 239) with district court for permission to proceed in appeal court IFP, which motion was denied by district court after three weeks, on 11/02/2017; while, on 10/11, 2017, the U.S. Court of Appeal for Seventh Circuit (Seventh Circuit) ordered to open case No. 17-3094 based on this filed "Notice of Appeal" about suing judge Kocoras.

On 11/ 07/ 2017, after district court denied motion IFP in appeal court, Sklyarsky filed motion to appeal IFP with Seventh Circuit, which stayed not resolved almost three months, until February 05, 2018, when the appeal court affirmed of district court's dismissal of Sklyarsky's Complaint and denied automatically of this motion. Before waiting for issue of Seventh Circuit's decision on IFP motion and on needed the court's scheduling of briefing procedure, on 01/16/2018, Sklyarsky filed his Plaintiff –Appellant Brief with Seventh Circuit.

In its Statement to its Order (App. 1a-2a), on February 05 2018, Seventh Circuit stated, "**It is Ordered** that the motion to proceed in forma pauperis is **denied**, and the judgment of the district court is summarily **affirmed**". See App.1a-2a.

In the issued Statement, Seventh Circuit informed that it reviewed final order of the district court and documents filed with appeal court, including appellant's brief; and, it *"determined that any issue which could be raised are insubstantial and that further briefing would not be helpful to the court's consideration of the issue"*. Further, in the Statement, Seventh Circuit provides its distorted version about Sklyarsky's pleadings and presented claims in the Complaint filed with the district court. For example, appeal court falsely state: *"In this suit, Yaroslav Sklyarsky complained that the district court's procedural rulings, as well as its factfinding and legal decision, in his previous discrimination case against his former employer were intentionally false and were made to favor his former employer."* Consequently to appeal

court's statements contained in its Statement, it is clearly visible that all appeal court's opinions, explanations, and Order that are based on its stated fundamental legal ground that is its apparently wrong using of its distorted of Sklyarsky's pleadings instead of his original ones are automatically wrong in any case. However, in this court's Statement, it is one true fact that is that Sklyarsky pleads that district judge Kocoras's actions in the case "*were intentionally false and were made to favor of his former employer*". But appeal court is silent that Sklyarsky, in Complaint to district court and in his Brief to the appeal court, pleads claims and provides arguments that are supported by his using of undisputable documentary evidence that disclose that judge Kocoras, upon performing his duties in the case, willfully used and made up by himself lies (fabrication and distortion of material facts, ect.) and was in conspiracy with defendant, which actions were out of scope of a judge's judicial capacity or out of a judge's professional duties, but they were the judge's actions of violation of the Constitution and 42 U.S. C. § 1985 (3) that caused mental injury and other damages for Sklyarsky. This appeal court's silence creates fundamental distortion upon consideration of Sklyarsky's pleading and made its opinions and decisions apparently wrong. It is undisputed fact that Sklyarsky's Complaint in district court and appealing brief in Seventh Circuit is about judge Kocoras's willful violation of the Constitution and 42 U.S. C. § 1985 (3), but not about "*the district court's unconstitutional rulings*" as Seventh Circuit states (App. 2a) in its Statement to Order. As it is articulated numerous times in Complaint and in Petitioner's Brief, Sklyarsky provided, also, of some part of pleadings about so- named by the courts of "*the district court's unconstitutional rulings*". But this part of the pleadings is provided by Sklyarsky exclusively for purpose to support indirectly of his claim about judge Kocoras's conspiracy with defendant in Sklyarsky's previous case about intentional employment discrimination.

Sklyarsky did not allege in his Complaint that his claim “*was not related to the district court’s judicial acts*”. And it determined and stated improperly about Sklyarsky’s claims pleaded in Complaint that, in January 2015, “*Sklyarsky should have known of any claims...*”, due its pointing on date when it affirmed district court judge Kocoras’s judgments in Sklyarsky’s previous case appealed about Kocoras’s erroneous judgments in previous case for purpose to calculate of beginning to run time for limitation of filing present *Biven Action* against judge Kocoras.

The true fact, which is stated in Complaint and in appealing brief, is that Sklyarsky was mentally injured from his perception that judge Kocoras was not erroneous upon his commitment of judicial actions in previous case but he was willful violator of the laws, which occurred in about July 2017, when Sklyarsky discovered of facts that judge Kocoras willfully lied and being in conspiracy with defendant that was the judge’s willful violation of the Constitution that resulted deprivation of Sklyarsky as Plaintiff of his constitutional rights under 1st and 14th Amendments that occurred when Sklyarsky learned and investigated all documents filed with the district and appeal courts in his previous case.

Sklyarsky was not mentally injured from fact of Seventh Circuit’s affirmation of district court’s judgment in his previous case about employment discrimination that issued in January 2015 because he has had knowledge that all courts’ judicial actions performed in scope of the courts’ jurisdiction, including erroneous ones that Sklyarsky appealed, ect., are not violations of the laws, and this of the court’s stated fact about affirmation of dismissal of the case did not cause injury for Sklyarsky. As it is visible, at named above date of the Seventh Circuit’s issued affirmation – January 2015, Sklyarsky did not have knowledge and supported facts for claiming that judge Kocoras violated of the laws upon his performing duties due to his committed actions

that were out of scope of his jurisdiction. Accordingly to Sklyarsky's pleading in Complaint, Sklyarsky learned and got knowledge that judge Kocoras did not do error in his case but did willful violations of the Constitution and law in about July 2017.

And finally , Seventh Circuit, due to its writing in Statement (App.2), did willingly fundamental distortion by stating, "*Sklyarski argue on appeal that he did not discovery that district court's rulings were unconstitutional* (The true Sklyarsky's claim and supported arguments presented in the courts' filed documents is he discovered about fact that "judge violated of the laws" but not about the "unconstitutional rulings" stated by the appeal court) *until recently when he conducted research..*"; which the court's distortion did its Order and explaining Statement (App.1a-2a) about affirming district court's Order fully wrong because it is suitable only for no existing claim in Complaint about "unconstitutional rulings", including its reason for affirmation of the "dismissal" reasoned by its "time-barred of two-year Illinois's statute limitation on personal injury".

REASONS FOR GRANTING THE PETITION

I. SUMMARY ARGUMENTS

As summary, accordingly to apparently visible content of judgments and statements to them that explain these judgments, the judges of district and appeal courts, who dismissed and affirmed the dismissal of Plaintiff's Complaint on stage of screening Complaint with district court's own initiative due to its using of mechanism of "affirmative defense" that is prerogative of defendant but not a judge, disclosed fact that judge Leinenweber did function of some dishonest defendant's counsel (due to using incorrect date for the beginning to run "limitation period" for filing complaint) for purpose to protect of his colleague –judge Kocoras from suing instead of suing of him in accordance to "Rule of Law" for claims about his willful violation of

the Constitution and other law upon administrating of Plaintiff's previous filed civil action about intentional employment discrimination and retaliation.

For purpose to protect judge Kocoras for suing in claimed *Biven Action*, the judges both courts used fundamental distortions of Plaintiff's original pleadings and claims presented in Complaint that are shown from represented by them statements, and as main, their substituting of Plaintiff's claims about the judge's *Biven Action* on claims about judge's "unconstitutional rulings", implied by them as erroneous ones (see App. 2a and 4a-5a). Consequently, all of both courts judges' statements and judgments are made for facts and circumstances that are absolutely different than are really in present case. In fact, these statements and judgments are correct for some cases about so-named "unconstitutional rulings" that are really incorrect erroneous procedural rulings that have effects of violation of the Constitution, but they are not correct to Sklyarsky's pleaded claims about the judge's willful violation of the Constitution and 42 U.S. C. § 1985 (3). The both courts' used term - "unconstitutional rulings" is not appropriated for present case because it is used in judicial practice for name of the courts' erroneous rulings that have effect of some violation of the Constitution when judges possess immunity for suing for such committed actions. The courts' using this term obscures factual Sklyarsky's pleadings and claims and gives for district and appeal courts of possibility to justify lawlessly their judgments about dismissal of Complaint. Therefore, even this one disclosed fact about the judges' fundamental distortion discloses that the judgments about dismissal of Complaint are apparently lawless.

Also, the judges of both courts did and second fundamental distortion that has been their final direct lawless argument for dismissal of Complaint, they "assigned" date for beginning to run time limitation for filing Complaint about *Biven Action* on January 2015, which is date when

Seventh Circuit affirmed judge Kocoras's judgment about dismissal Sklyarsky's previous case, where Sklyarsky appealed the judge Kocoras's erroneous actions in this case. In fact, the true date of the beginning to run limitation period ⁴ is July 2017 – date of filing of the Complaint; which fact is stated in the appealing brief ⁵ (case No. 17-3094, 7th Cir.), on page # 5, (a) when Sklyarsky felt mental injury from discovery upon gotten knowledge after his learning and investigation of all documents filed with district and appeal courts , (b) his awareness and assurance that judge Kocoras was not random erroneous in his performed judicial actions in the previous case but he willfully violated the Constitution and other law that resulted deprivation of Sklyarsky of his constitutional rights that are disclosed in the Complaint and appealing brief.

As it is known, the time of beginning of feeling of personal mental injury of potential plaintiff from deprivation of civil or constitutional rights does not coincide with time of occurring or time of getting information about some first event for arising mental injury, which is in contrary to physical injury when both times coincide. Therefore, potential plaintiff needs to have of some enough period of time for occurring feeling of mental injury, obtaining of knowledge, evidence, and awareness or assurance that individuals, who are acting under “color of law”, committed violations or not of the U.S. Constitution or other U.S. laws that caused deprivation of the constitutional rights of potential plaintiff. Consequently, only a plaintiff's pleading is evidence for determining date of beginning to run of the “limitation period”, and five-

⁴Federal law defines the accrual of a *Bivens* claim. *Perkins-Alexander v. Sanchez*, 16 F. App'x 484, 486 (7th Cir 2001); *Leavell v. Kieffer*, 189 F.3d 492, 495 (7th Cir. 1999). "Under federal law, the time begins to run when the plaintiff knows that he has been injured." *Leavell*, 189 F.3d at 495.

"Limitations on a *Bivens* claim 'begins to run when the plaintiff knows or has reason to know of the existence and cause of the injury which is the basis of his action.'" *Van Tu v. Koster*, 364 F.3d 1196, 1199 (10th Cir.)

⁵ On this page of the brief is stated: "In beginning of 2017, Sklyarsky, after self-study, has gotten knowledge and assurance that Judge Kocoras wrongdoings in case were not his errors (see Comp. p.66) but was willful violations of the U.S. laws due to his using lie and conspiracy upon administration of the case for purpose doing favor for Harvard, and Sklyarsky has gotten opportunity and rights for redress and relief for judge Kocoras's willful violations of the U.S. Constitution and 42 U.S. C. §1985(3)."

year "limitation period" is reasonably appropriated period upon claiming "mental injury" in so-named *Biven Action*, ect. *Id.*

And, as it is visible from district and appeal courts' statements to their Orders about dismissal of Complaint (App.3a -8a) and affirmation of it (App. 1a -2a), beside of the both courts' apparently wrongly admitted date for beginning to run time of limitation for filing of the Complaint about *Biven Action*, their decisions are built on their incorrect used of judicial applications such as two-year Illinois statute limitation used for personal injury (it implied physical injury) ⁶, instead of five-year limitation accordingly to Sec. 13-205 of 735 ILCS 5/13-205 ³, and accordingly to the rulings in post- *Wilson* ⁷ era about selecting appropriated period that is more appropriated five-year limitation for *non-physical injury* that is "mental injury" in civil rights actions characterized by federal Civil Rights Act to seek remedy and compensation for the illegal deprivation of constitutionally-guaranteed rights. Additionally, Illinois federal courts also recognizes that the "discovery rule" may toll the statute of limitations until the "the injured person becomes possessed of sufficient information concerning his injury and its cause to put a reasonable person on inquiry to determine whether actionable conduct is involved." *Sroga v. De Jesus*, 2013 WL 2422869, at *4 [N.D. Ill. June 3, 2013] (citing *Knox Coll. v. Celotex Corp.*, 430 N.E.2d 976, 980-81 (Ill. 1981)).

ARGUMENTS

I. About district and appeal courts' fundamental distortions of Plaintiff's original pleadings and claims contained in Complaint for purpose of consideration and making willingly unlawful judgments that resulted lawless dismissal and affirmation of the dismissal of Complaint about *Biven Action* filed against defendant district court judge.

⁶ Generally, where more than one limitation may apply, courts will select the longer of the two. See *Marshall v. Kleppe*, 637 F.2d 1217, 1224 (9th Cir. 1980); *Shah v. Halliburton Co.*, 627 F.2d 1055, 1059 (10th Cir. 1980); *Reid v. Volkswagen of America, Inc.*, 512 F.2d 1294, 1297 (6th Cir. 1975); *Payne v. Ostrus*, 50 F.2d 1039, 1042 (8th Cir. 1931).

⁷ See *Wilson*, 471 U.S.

Accordingly to the courts' statements and used citations of the higher courts contained in Statements (App.2a-7a) to Orders of district and appeal courts about dismissal and affirmation of the dismissal of Plaintiff's (Sklyarsky's) Complaint the both courts did not even mention about Sklyarsky's original pleading claims about district court judge Kocoras's willful violations of the U.S. Constitution under Art. VI due to disclosure of the judge's willful violations of the "Oaths of Judge" accordingly to existing documentary evidence filed in Sklyarsky's previous civil action in district and appeal courts, which some ones of them have been presented in Sklyarsky's Complaint that disclose that judge Kocoras, upon his administrating of Sklyarsky's previous case, used lie due to his making up fabrication and distortion of material facts, and due to being silent about Sklyarsky's presented arguments and facts for his proof for justifying of his willfully lawless judicial acts that resulted lawless dismissal of Sklyarsky's case about intentional employment discrimination upon procedure of summary judgment. As it was disclosed above, the lawless dismissal of the case deprived of Sklyarsky of (a) factual abridging "to petition the government for redress of grievances", (b) denying factually of "the equal protection of the laws" because of the judge's using lie and distortions of material facts, and because of the judge's being in conspiracy with defendant in his administrating case, which facts constituted of the judge's violations of the U.S. Constitution under Art.VI and 42 U.S.C. §1985(3); which violations have had effect of deprivation of Sklyarsky's constitutional rights under 1st and 14th Amendments because of depriving lawlessly of Sklyarsky of rights for a court trial, ect..

Also, both courts keep silence in their Statements about Sklyarsky's pleadings in Complaint about judge Kocoras's conspiracy with Sklyarsky's defendant in the case, which claim about conspiracy is supported by the Sklyarsky's disclosure of judge Kocoras's numerous

unjust judicial rulings made for the defendant's favor in violation of Fed. R. Civ. P. that was presented in the courts' filed documents in previous case and partly in present case that constitute, in general, of the judge Kocoras's violation of 42 U.S.C. § 1985(3), which conspiracy contributed in the deprivation of Sklyarsky's constitutional rights.

Moreover, instead of considering of Sklyarsky's original pleadings and claims in Complaint, both courts, accordingly to their Statements (App.1a-2a and App. 3a-7a), considered and made Orders for distorted version of Sklyarsky's pleadings due to their naming of Sklyarsky's original claims as claim about judge Kocoras's "unconstitutional rulings or actions" within of judge's jurisdiction with their implying and imposing context in their Statements named by them as claim is about a judge's erroneous rulings that has effect of uncertain violation of some provision of the U.S. Constitution. Consequently, all statements of the both courts are suitable for cases with claim about judges' erroneous judicial actions but not for Sklyarsky's original pleaded claims about judge Kocoras' willful violation of the Constitution and other law that caused deprivation of Sklyarsky's constitutional rights under 1st and 14th Amendments upon of his suing of his employer for intentional discrimination in his previous case. Therefore, all statements and judgments of district and appeal courts are not correct for Sklyarsky's original pleaded claims in any case, because they are only correct for some cases about claims about judges' erroneous procedural actions committed in scope of a judge's jurisdiction. But judges of district and appeal courts used them in present case for their distorted version of Sklyarsky's original claims for purpose of hidden from Public lawless dismissal of Complaint. The argument about erroneous dismissal of Sklyarsky's Complaint, on stage of screening of it, that is in some way analog of *Biven Action*, is very strongly supported in Complaint and in the appealing brief, where Sklyarsky clearly pleads, states, and asserts that his

claims are about the judge Kocoras's actions that are committed out of the judge's jurisdiction or out of his professional duties that were his lying and conspiracy with the defendant in his administering case, which arguments and facts constitute the judge's violations of the Constitution and other laws.

In short, due to content and context of the both courts' Statements, the both courts' considering of distorted version of the original claims can imply of some unclear and uncertain point of violation of the Constitution, while original Sklyarsky's claims clearly asserts about violations of two points of the Constitution – (1) the judge's willful violation of Art. VI, (2) violation (deprivation) of Plaintiff's constitutional rights under 1st and 14th Amendments as consequence of the judge's violation of the first point. These violations of two points of the Constitution are perfectly construed and are sufficiently pleaded in Sklyarsky's Complaint about so-named *Biven Action* that was lawlessly dismissed without court's trial.

II. About district court's no using legal standard for considering motion to dismiss complaint under Fed. R. Civ. P. 12(b) (6) that cause unlawful dismissal Plaintiff's Complaint about *Biven Action*.

As it is ruled by Seventh Circuit, "A motion to dismiss under Fed. R. Civ. P. 12(b)(6) does not test the merits of a claim; rather it tests the sufficiency of the complaint." *Gibson v. City of Chicago*, 910 F.2d 1510, 1520 (7th Cir. 1990). However, Seventh Circuit and U.S. District Court for Northern District of Illinois ignored this ruling in present case, which proof of this statement is disclosed below.

As it is known, accordingly to the U.S. courts' judicial practice, it is established the Legal Standard for consideration of pleadings in complaints for purpose making decision about survival of complaints under Federal Rule of Civil Procedure ("Fed. R. Civ. P. ") 12(b)(6) motion to dismiss for failure to state a claim upon which relief can be granted. Accordingly to

this "Legal Standard", a court has to consider particular features of complaint. To survive Fed. R. Civ. P. 12(b)(6), the complaint first must comply with Rule 8(a) by providing "a short and plain statement of the claim showing that the pleader is entitled to relief" (Fed. R. Civ. P. 8(a)(2)), such that the defendant is given "fair notice of what the claim is and the grounds upon which it rests." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). Second, the factual allegations in the complaint must be sufficient to raise the possibility of relief above the "speculative level." *E.E.O.C. v. Concentra Health Servs., Inc.*, 496 F.3d 773, 776 (7th Cir. 2007). Dismissal for failure to state a claim under Rule 12(b)(6) is proper "when the allegations in a complaint, however true, could not raise a claim of entitlement to relief." *Twombly*, 550 U.S. at 558. Court must accept as true all of Plaintiff's well-pleaded factual allegations and draws all reasonable inferences in Plaintiff's favor. *Killingsworth v. HSBC Bank Nevada, N.A.*, 507 F.3d 614, 618 (7th Cir. 2007). Court must consider whether the factual allegations in the complaint allege a plausible claim for relief. See *Atkins v. City of Chi.*, 631 F.3d 823, 832 (7th Cir. 2011). Pleadings filed by *pro se* litigants must be "liberally construe[d]" and are not held to the same stringent pleading standards as those filed by trained lawyers. *Parker v. Four Seasons Hotels, Ltd.*, 845 F.3d 807, 811 (7th Cir. 2017).

As it is visible from citations disclosed above, a court's decision about resolving motion under Fed. R. Civ. P. 12(b)(6) must be made due to analysis of pleading in complaint. In present case, district court, as it is visible from its Statement (App. 3a-7a) did not analyze the pleadings in Complaint accordingly to the "Legal Standard" but made premature decisions about key issues presented in Complaint and did inference about dismissal Complaint (App. 3a- 7a) by stating as "with prejudice for failure to state a claim under Fed. R. Civ. P. 12(b)(6)" accordingly to its Statement because district court judge Leinenweber did not believe (as it is visible from content

and context of his Statement) in Sklyarsky's pleadings that judge Kocoras lied, distorted material facts, and being in conspiracy, etc.; which facts were claimed by Sklyarsky as the judge's violations of the laws despite fact that Sklyarsky, even in Complaint, presented undisputable documentary facts about judge Kocoras's lying and being conspiracy as were actions that were out of a judge's jurisdiction. Instead district court, as well as appeal court, determined ungrounded, as it was disclosed in their Statements by the both courts, that judge Kocoras's actions, upon administrating of the case, were in scope of a judge's jurisdiction. Even taking in count this one fact that is the courts' no using of the "Legal Standard" for consideration motions under Fed. R. Civ. P. 12(b)(6)" discloses fact that the dismissal of Complaint was improper judicial actions of the district and appeal courts in any case. Also, in other words, it is paradoxical citation in present case about dismissal of the Complaint without presenting of any argument about such decision upon considering motion based on analysis of the pleadings in Complaint for determining of criterions for making judgment about adequacy of pleadings to requirements needed for survivor of Complaint under existed "Legal Standard" applied for such motions. Therefore, the fact of dismissal of the Complaint is look as district and appeal courts' willful erroneous action for purpose to protect of the district judge for suing in claimed so-named *Biven Action*.

III. About district and appeal improper determination of date for beginning to count (to run) limitation period for filing *Biven Action* resulted mental injury for person.

As it was stated above, the district and appeal courts determined that the date for beginning to count limitation period for filing *Biven Action* against district judge, who administrating of Plaintiff's previous civil action in district court that was dismissed upon procedure of summary judgment without a court trial, was January 2015 – date when the appeal court affirmed of the district court judge Kocoras's judgment about dismissal of the case as

lawful decision, which dismissal was appealed as the district court's erroneous action. Because Plaintiff (Sklyarsky) has had knowledge that appeal court's decisions about appealed of district courts' final judgment, even he still has doubt or assurance about the both c constitutional rights, ect., is not a judge's violation of the law, and it is not fact of deprivation of plaintiff of his constitutional rights for having of court's trial, he denies that January 2015 is date when he felt injury. Therefore, the fact of appeal court's affirmation of the district court's final judgment in Sklyarsky's case did not injure of Sklyarsky. But lately, Sklyarsky decided to reread and reconsider documents filed with the district and appeal courts in his previous case, and , on about July 2017, after he finished to learn appropriated laws and documents in his previous case, he discovered that some judge's Kocoras actions in previous case, such as lying, distorting of material facts, and ect., used by him upon making rulings and judgments, were out of judge's jurisdiction and committed a judge's violations of the Constitution and other law that caused deprivation of him of his constitutional rights under 1st and 14th Amendments. Consequently, in July 2017, Sklyarsky filed present *Biven Action* against judge Kocoras that was dismissed by district and appeal courts' Orders upon procedure of screening of Complaint for their major reason, as it is stated by both courts as that the action is "*time-bared as filed beyond the applicable two—year statute of limitation*" (App. 2a-7a). There, in documents filed with both district and appeal courts, beside of Sklyarsky's pleading about date of beginning of his "mental injury" from judge Kocoras's violations of the laws that was about in July 2017, are not of any other evidence that can give for both courts to do inference that "limitation period" for filing present case began in January 2015 – date of the appeal court's affirmation of judgment of the district court's judgment in Sklyarsky's previous case. "The statute of limitations begins accruing from the date the plaintiff has a complete and present cause of action, that is, when the

plaintiff can file suit and obtain relief.”, *Wallace v. Kato*, 549 U.S. 384, 387, 12 S.Ct. 1091, 166 L.Ed.2d 973 (2007).

The fact about both courts improper counting of beginning to run “limitation period” discloses that both courts are willfully wrong, and motive of this wrongdoings is their means to hide from public of their false reason for dismissal of Sklyarsky’s Complaint for purpose to protect unjustly of judge Kocoras for suing for his willful violations of the Constitution and other law upon performing of his duties.

Beside of incorrect determined of the date of beginning to run “limitation period” for filing civil action, the both courts, also, inappropriately determined federal courts’ using to present case (that is action under Civil Rights Act upon unphysical injury that is “mental injury”) of two-year “limitation period” extracted from Sec. 13-202 of 735 ILCS 5/13-202 instead of five-year “limitation” that have to be extracted from Sec 13-205 of 735 ILCS 5/13-205, which five-year “limitation” is also supported by other high courts’ rulings disclosed in Sklyarsky’s arguments of this Petition above.

IV. This Case Involves Litigated Issues Of Substantial Importance.

Present case is unique and unrepresented in judicial practice of federal courts accordingly to a few causes, and, because of this feature, here it is aroused a few issues and questions that were rare or disclosed in first time because they could be provided only of a *pro se* plaintiff who represent poor income people who cannot employ representative attorney; and, therefore, the involvement of present Court is needed for resolving of these issues, questions, and even problems.

Beside of a few issues and questions, present case disclosed also of some problems that exist in the judicial system that has concern of mechanism of suing federal judges for committed by them actions upon performing duties that are out of a judge’s jurisdiction such as judges’

using lie, willful distortion of material facts, issue of rulings in favor of some party in citation when judge does not have legitimate procedural discretion, ect. , which judges' actions are claimed in in filed civil actions as a judge's violation of the Constitutions or other laws that has effect deprivations of a plaintiff's constitutional rights, including creation of personal injury and monetary damages for plaintiff. Due to Plaintiff's experience in present citation, the core of problems is fact that that civil actions against judge of district court in such named *Biven Action* have to be filed in the same court where defendant judge is working. In this citation, in fact, it exists so- named "internal court's conflict of interests", even though a defendant judge is suing for actions claimed as violations of the laws committed in a judge's individual capacity for committed actions that are out of a judge's jurisdiction. Due to the Plaintiff's recent proceeding in federal courts for defense of his civil rights, this "conflict of interests" has chain of federal judges' violations of the laws and the procedural Rules that deprived of Plaintiff - Petitioner (Sklyarsky) : (a) factual abridging "to petition the government for redress of grievance (1st Amendment)", (b) factual deprivation of him "the equal protection of the laws (14th Amendments)"; because Plaintiff (Sklyarsky) was deprived possibility to obtain justice upon a court trial in previous and present cases, and was deprived possibility to reimburse of his compensatory and punitive damages, as well as declaratory relief in both cases. This chain, in present case, has begun in January 2013, when Plaintiff was terminated from work due to his employer's retaliation for Plaintiff's previous lawful opposition for his discriminatory treatment during about three years. In February 2013, Sklyarsky (plaintiff) filed Complaint of Discrimination with district court and judge Kocoras was assigned for administrating of civil action. Because Sklyarsky's pleaded claims and evidential support for them were such strong and undisputedly that defendant employer's chance for judicial defense from court's finding of

intentional discrimination of Sklyarsky was almost absent. In this citation, as Sklyarsky discovered, in about July 2017, due to conscience of discriminatory animus of Sklyarsky's employer and judge Kocoras, that defendant and the judge Kocoras were engaged in conspiracy for purpose to dismissal of the case without court jury trial as Sklyarsky requested. And, in July 2014, judge Kocoras, due to his using lie and willful distortions of Sklyarsky's provided material facts as he wrote in his disclosed formal factfinding for legal ground for making of his final judgments, dismissed of the case upon procedure of summary judgment, which willful wrong factfinding was the judge legal ground for his lawless justifying of the dismissal of the case and his means for hiding from public of his unjust and lawless decisions.

The appeal court, in January 2015, accordingly to its affirmation of the district court's dismissal of the case about employment discrimination due to stating that it did not find errors in district court's decisions despite of fact that Sklyarsky's appealed arguments were very strong and undisputable that he has gotten big doubt about the appeal court's rightness, as well as the district court's rightness, about dismissal of the case. And, in about July 2017, as it is stated early in this Petition, Sklyarsky, after review of all documents filed with the district and appeal courts, disclosed that judges of the both courts were not erroneous in their decisions in the dismissing case but they willingly did wrong actions that deprived of Sklyarsky for having court's trial in his case about intentional employment discrimination. Because Sklyarsky found evidence that district court judge committed willful violation of the U.S. Constitution due to his lying and being in conspiracy with defendant while judges of appeal court only violated the procedural rules that looked as commitment of erroneous judgment, Sklyarsky filed present *Biven Action* only against of district court judge Kocoras because federal judges have immunity from suing for none-procedural or erroneous judicial actions. Accordingly to provided above arguments, it is

apparently visible that appeal court, in present and previous Sklyarsky's cases, committed willfully unfair actions for purpose to hide from public violations of procedural rules and of the laws by judges of district court because the appeal court has immunity for such actions as last judicial instance in the judicial system. In short, the appeal court in Sklyarsky's previous case and district and appeal courts in present case, unjustly covered judge Kocoras for liability for his willful violations of procedural rules and the laws including the U.S. Constitution that caused deprivation of Sklyarsky of his constitutional rights under 1st and 14th Amendments.

V. About separated liabilities for combined *Biven Action* claims against judge sued in his individual and official capacities that were not counted by the courts.

In Complaint and in the appealing brief, Plaintiff pleaded and disclosed of his two combined claims against district court judge Kocoras for his suing : (1) in his individual capacity for his actions committed out of a judge's jurisdiction such as willful violation of the Constitution under Art. VI (violation of "Oaths of Judge"), and being in conspiracy with defendant in administrating case that resulted deprivation of Plaintiff of his constitutional rights under 1st and 14th Amendments of the U.S. Constitution due to causing for Plaintiff (a) factual abridging "to petition the government for redress of grievances" and denying factually of "the equal protection of the laws" that the judge's lawless depriving of Plaintiff of rights for having the court trial in previous filed civil action; (2) in his official capacity (suing of the U.S.) for judge Kocoras's actions committed in scope of a judge's jurisdiction (actions committed by the district court) such as making judgments upon being lost jurisdiction because of judge Kocoras's violation of "Oaths of Judge". See: "If a judge does not fully comply with the Constitution, then his orders are void, *In re Sawyer*, 124 U.S. 200 (1888), he/she is without jurisdiction, and he/she has engaged in an act or acts of treason". Therefore, Plaintiff claims separated liabilities for committed violations against him (1) on judge Kocoras as on person for

his actions in his individual capacity and on (2) the district court as on the U.S. for judge Kocoras's actions in his official capacity who acted upon losing a judge's jurisdiction because of violation of his "Oaths of Judge". Consequently: (1) Plaintiff claimed remedy by requesting of compensatory damages for reimbursements of Plaintiff's expenses upon the court's proceeding that was administrated by judge that lost jurisdiction over the case [See *Stump v. Sparkman*, 435 U.S. 349, 356-57 (1978); *Azbuko*, 443 F.3d at 303, "... he has acted in the 'clear absence of all jurisdiction'", *Stamp*, 435 at 356-57.], and punitive damages for created mental injury for deprivation of his constitutional rights for defense of his civil rights and consequently to deprive of him to reimburse damages created by claimed violations via the court's trial in previous civil action about intentional employment discrimination due to the judge's willful commitment of violation of U.S. Constitution and 42 U.S.C. §1985(3) upon acting in his individual capacity; (2) Plaintiff claimed to award declaratory relief by requesting of declaring that judge Kocoras, upon administration of case No. 13-cv-859, violated U.S. Constitution under Art. VI and 42 U.S.C. §1985(3), lost jurisdiction for making judgments in the case, including final judgment, and therefore it must be declared that the judgments in the case are void and the case must be remanded and reopened for review and proceeding under administrating of other judge or even court.

While, district and appeal courts, accordingly to content and context of their Statements (App.3a-7a and App. 1a-2a), do not consider the suing of judge Kocoras in both capacity, but only the suing judge Kocoras in his official capacity for such named by the both courts as for his (judge Kocoras's) "unconstitutional ruling" in Plaintiff's previous case with the courts' implying that these "rulings" were made as erroneous with having of some effect of violations of the Constitution. Consequently, the courts, due to their willful improper interpretations of Plaintiff's

original pleaded claims in Complaint, state that judge Kocoras committed actions in the case in scope of a judge's jurisdiction, implied that he acted only in boundary of his official capacity, and therefore due to existence of a judge's immunity from suing in such cases, both courts decided that present Complaint does not have merit for court trial and dismissed lawlessly of it without taking in count of all Plaintiff's original claimed issues and existing judicially proper rulings for examining of Complaint upon screening procedure.

In short, even this one fact that district and appeal courts did not consider of Plaintiff's claims about liability of judge Kocoras for actions committed in his individual capacity that were out of a judge's jurisdiction disclose fact that the decisions about dismissal of Complaint are absolutely incorrect. Which fact shows that it is blatant violation of principle - "Rule of Laws" and of democratic base of American society?

Additionally, as it disclosed above, the pleaded claims in the Complaint are very complicated, and as it known *Biven Action* does not contain a statute of limitations in Illinois. For this, courts look to the personal injury laws of the state in which the injury occurred. *Wallace v. Kato*, 549 U.S. 384, 387 (2007); *Kelly v. City of Chicago*, 4 F.3d 509, 511 (7th Cir. 1993). It is true that Illinois has a two-year statute of limitations for personal injury claims that are applicable to personal **physical injury** but not to **mental injury** as it is present case.

Consequently if to take in count the arguments presented above in this Petition, the all both courts' statements like as stated - "*time-bared as filed beyond the applicable two-year statute of limitation (App.2a)*", as reason for dismissal of the Complaint, are apparently incorrect in any cases. Illinois courts have interpreted the two-year Illinois statute that expressly applies to "personal injuries" to be applicable only to direct, physical injuries. For example, the

Northern District courts in Illinois in *Shorters v. City of Chicago*⁸ and *Johnson v. Arnos*⁹ held that the five-year limitation period survived *Wilson*¹⁰ in Illinois upon depriving of civil rights. And, also, if even not to take in count of the Petitioner's arguments presented above in this Petition, the courts' statements about Complaint as "time-bared as filed beyond the applicable two-year statute of limitation", as reason for dismissal of the Complaint, are apparently incorrect despite of any the courts' presented statements used by these courts for explanation of their lawless judgments about the dismissal of Complaint because these statements can have concern to the courts' considering of Sklyarsky's distorted by the courts' pleadings but do not have concern to Sklyarsky's original pleadings that are presented in his Complaint. The statute of limitations begins accruing from the date the plaintiff has a complete and present cause of action, that is, when the plaintiff can file suit and obtain relief. *Wallace v. Kato*, 549 U.S. 384, 387, 12 S.Ct. 1091, 166 L.Ed.2d 973 (2007).

VI. Generalization of reason for granting of the Petition.

As it is visible from the Statements of appeal and district courts (App.1a-2a and 3a-7a), as the courts' explanation about their reasons about dismissal of Complaint, both courts provided only one argument about reason for dismissal Complaint that in fact is the courts' incorrect determination in their statements that is stated by the courts that Plaintiff (Sklyarsky) failed two-year statute limitation period for filing *Biven Action* about personal injury in state Illinois (it is not exist precise ruling in Illinois federal courts about two-year limitation for filing case about personal mental injury in *Biven Action*). All other the courts' provided statements, as implied reasons for dismissal Complaint, and as it was articulated above in this Petition, are not applicable at all to present case because the stated rulings were made and used

⁸ Shorters, 617 F. Supp. at 665.

⁹ Johnson, 624 F. Supp. at 1071

¹⁰ Wilson, 471 U.S.

in cases where it was claimed about non-procedural or unconstitutional erroneous judges' actions committed in scope of a judge's jurisdiction, while Sklyarsky's pleaded claims are about violations of the laws by the judge Kocoras due to his committed actions that are out of a judge's jurisdiction, Sole argument of both courts as reason for dismissal of Complaint about Sklyarsky's failure to file Complaint during limitation period could be proper for the dismissal only in case if the courts would have been properly determined date of beginning to run of limitation period and correct duration of limitation period for case of mental injury of plaintiff from violation of plaintiff's constitutional rights by persons acted under authority of "color of law". In this Petition, above, Sklyarsky disclosed of his some arguments about this issues. The courts' stated date of beginning of the "limitation period" in January 2015 – date of appeal court's affirmation of final judgment of district court appealed by Sklyarsky as district court's erroneous judgments, is absolutely incorrect because presented Complaint have nothing related and common to his previous case about discrimination.

In any case, Sklyarsky did not fail to use neither five years non two years the "limitation period", if it to take in count his stated proper date of beginning to run "limitation period" that is in about July 2017 when he discovered and has gotten knowledge and evidences that judge Kocoras committed willful violations of the Constitution and other law.

And, due to the generalization, about the district and appeal courts' reasons for dismissal of Complaint on stage of its screening, the both courts did not present any legitimately proper reason for dismissal of Complaint. Therefore, due to presented arguments about the "chain" of events about Plaintiff's trying to defense of his civil rights in federal courts, it is apparently visible that judges are using willingly violations of procedural rules and even of the laws

without any fear to be sued, because they have assurance that they will be protected from suing by their colleagues due using willingly procedural errors upon screening complaints.

Therefore, the involvement of this Court in this and other of Petitioner's - Plaintiff's disclosed problems, issues, and questions is very needed.

CONCLUSION

The questions disclosed in this case about process of suing of federal judge in *Biven Action* are unique or rare in judicial practice but are very important for Public. Presented arguments in this Petition have raised inference that the district judge and the judges of appeal court did willfully procedural incorrect decisions about dismissal of Plaintiff's Complaint in present case, but these judges cannot be sued in civil action because they have immunity upon making such decisions. While, the district judge Kocoras has to be sued for his incorrect actions in Plaintiff's previous case because he did violations of the Constitution and other law upon performing of his duties, and the decisions of the judges in present case have to be corrected as are as erroneous; and so that this Petition for a writ of certiorari should be granted.

Respectfully submitted,

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