
IN THE
Supreme Court of the United States

LEFLORIS LYON,
Petitioner,

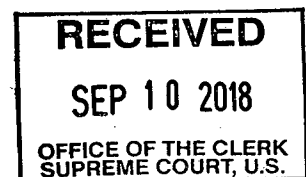
v.

CANADIAN NATIONAL RAILWAY COMPANY, ILLINOIS
CENTRAL RAILROAD COMPANY, WISE CARTER CHILD &
CARAWAY, P.A., AND CHARLES H. RUSSELL, III.
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS FOR
THE SEVENTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

LEFLORIS LYON (*PRO SE*)
P.O. BOX 87245
CHICAGO, IL 60680
PHONE - (601) 259-0033
EMAIL: LEFLORISLYON@GMAIL.COM



QUESTIONS PRESENTED

1. *Whether* the Seventh Circuit decision conflicts with all Courts of appeals, and *Lozman v. City of Riviera Beach*, 138 S. Ct. 1945 (2018); *Manuel v. City of Joliet, Ill.*, 137 S. Ct. 911 (2017); *Hartman v. Moore*, 547 U. S. 250 (2006)—28 U.S.C. §292(d)—28 U.S.C. § 455(b)—sealing without a Sealing Order—*denying* access to the court record—*denying* a criminal defendant counsel—when law enforcement agents and judicial officers, may be liable under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), for retaliatory prosecution in violation of the First Amendment and Fourth Amendment when the arrest warrants, detention and prosecution was not supported by probable cause?

2. *Whether* the Seventh Circuit decision conflicts with all Courts of appeals, and this Court's decisions in *Lawson v. FMR LLC*, 134 S. Ct. 1158 (2014); *Digital Realty Trust, Inc. v. Somers*, 138 S. Ct. 767 (2018)—excluding court records—prohibiting a *pro se* plaintiff's Rule 60 complaint—contrary to 28 U.S.C. §1915, when the law to that effect was clearly established at the time that retaliatory criminal charges were filed against petitioner, such that respondents are not entitled to qualified immunity.

PARTIES TO THE PROCEEDINGS

The parties to the proceeding in the Court whose judgment is sought to be reviewed are:

LeFloris Lyon identified in the caption, an individual, appellant, as the only petitioner here.

Respondents were not served [2014], yet appeared as defendants on August 10, 2017:

Canadian National Railway Company (CN), a public traded corporation on the New York Stock Exchange (NYSE), (ticker CNI).

CN subsidiary Illinois Central Railroad Company (IC), subject to the Illinois Central Railroad Tax Act (35 ILCS 605/18 and 605/22).

Wise Carter Child & Caraway, P.A., a private closely held Association and Law Firm.

Charles H. Russell, III, a Wise Carter Shareholder.

Parties listed in the May 9, 2014 pro se complaint caption and not served and not appearing:

The CN Act Project; Laird J. Pitz; Michael T. Novak; Constance Valkan; George H. Ritter; James E. Graves III; and Co-Conspirators as Doe Defendants 1-100:

TABLE OF CONTENTS

	PAGE
QUESTIONS PRESENTED	i
PARTIES TO THE PROCEEDINGS	ii
TABLE OF CONTENTS	iii
TABLE OF AUTHORITIES	vi
PETITION FOR A WRIT OF CERTIORARI	1
OPINIONS BELOW	1
STATEMENT OF JURISDICTION	1
CONSTITUTIONAL PROVISIONS	2
STATEMENT OF THE CASE	3
REASONS FOR GRANTING PETITION	4
I. Grant certiorari to decide whether 28 U.S.C. §455(b)(5) requires vacature	4
II. Grant certiorari to decide whether dismissing a Pro Se Fed. R. Civ. P. 60 complaint, contradicted 28 U.S.C. §1915, conflicting with all circuits.	9
III. Certiorari should be granted to decide whether Rule 5.2(d-f) requires a Sealing Order, a question of recurring importance	11
IV. Certiorari Should Also Be Granted To Decide Retaliatory Prosecution And Fraudulent Arrest Warrants Supports A Cause Of Action.	15
CONCLUSION	33

APPENDIX VOLUME I

Appendix A: Seventh Circuit, Order Denying Motion To Seek Counsel, Affirming District Court Orders. (March 5, 2018) 1a-4a

Appendix B: Seventh Circuit, Order Denying Petition for Rehearing (April 4, 2018) 5a

Appendix C: Seventh Circuit, Order Denying Copy of Flash Drive (October 11, 2017) ... 6a-8a

Appendix D: Judgment (S.D. Miss.), (May 21, 2013) 9a

Appendix E: Final Judgment, (S.D. Miss.), (July 25, 2014) 10a-12a

Appendix F: Motion and Memorandum to Unseal (N.D. Ill) (December 15, 2014) 13a-16a

Appendix G: DOL Order of Dismissal, to Bring An Action In U.S. District Court 18 USC 1514(b), (January 9, 2017) 17a-19a

Appendix H: E-Mail, *Lyon v. CNR*, No. 13-cv-913 (S.D. Miss.) Request for Hearing 20a-23a

APPENDIX VOLUME II

Appendix I: Hearing Transcript (S.D. Miss.), (August 19, 2014) 17a-72a

APPENDIX VOLUME III SEALED

Appendix J: District Order, (N.D. Ill), (August 15, 2014)	80a-84a
Appendix K: District Order (N.D. Ill), (September 4, 2014)	85a-88a
Appendix L: Order Denying IFP on Appeal (N.D. Ill), (September 16, 2014)	89a-91a
Appendix M: Emergency Hearing Transcript (N.D.Ill), (August 11, 2017)	92a-122a

APPENDIX VOLUME IV SEALED

Appendix N: Order, Re-Sealing Case (N.D.Ill), (August 11, 2017)	123a-130a
Appendix O: Judge's Limited Email, Disclosure, (September 11, 2017)	131a-144a
Appendix P: Order, Denying Record Correction (N.D.Ill) (November 8, 2017)	145a-147a
Appendix Q: Order, Denying Motion to Correct Record (N.D Ill) (November 29, 2017)	148a
Appendix R: Emergency Motion, To Reseal The Record (N.D Ill) (August 10, 2017)	149a
Appendix S: Memorandum to Reseal the Record (N.D Ill) (August 10, 2017)	155a

TABLE OF AUTHORITIES

CASES	Page(s)
<i>Anderson v. Creighton</i> , 483 U.S. 635 (1987)	27
<i>Armstrong v. Squadrito</i> , 152 F.3d 564 (7th Cir.1998)	29
<i>Armstrong v. Villa Park Police Dep't</i> , 2015 U.S. Dist. LEXIS 191497, *1	25
<i>Arizona v. Fulminante</i> , 499 U.S. 279, 309 (1991))	23
<i>BE&K Constr. Co. v. NLRB</i> , 536 U.S. 516 (2002)	4, 8
<i>Berry v. Stevinson Chevrolet</i> , 74 F.3d 980 (10th Cir. 1996)	31
<i>Burlington N. & Santa Fe Ry. Co. v. White</i> , 548 U.S. 53, 68 (2006)	17
<i>Chambers v. NASCO, Inc.</i> , 501 U.S. 32, 36 (1991)	8
<i>Coleman v. Frantz</i> , 754 F.2d 719 (7th Cir.1985)	29
<i>Cooke v. United States</i> , 267 U.S. 517, 537, 45 S. Ct. 390 (1925)	18
<i>Coolidge v. New Hampshire</i> , 403 U.S. 443 (1971)	24
<i>Coppedge v. United States</i> , 369 U.S. 438 (1962)	28
<i>County of Sacramento v. Lewis</i> , 523 U.S. 833, 850 (1998)	29
<i>DeGuelle v. Camilli</i> , 664 F.3d 192 (7th Cir. 2011)	9, 16
<i>De Long v. Hennessey</i> , 912 F. 2d 1144 (9th Cir. 1990)	9
<i>Denton v. Hernandez</i> , 504 U. S. 25 (1992)	9

<i>Digital Realty Trust, Inc. v. Somers</i> , 138 S. Ct. 767 (2018)	passim
<i>Fowler v. Butts</i> , 829 F.3d 788 (7th Cir. 2016)	5
<i>Freelain v. Village of Oak Park</i> , 888 F.3d 895, 901 (7th Cir. 2018)	17
<i>Gerstein v. Pugh</i> , 420 U.S. 103 (1975)	24, 27
<i>Gideon v. Wainwright</i> , 372 U. S. 335 (1963)	23
<i>Hallinan v. Fraternal Order of Police of Chi. Lodge No. 7</i> 570 F.3d 811 (7th Cir. 2009)	25
<i>Harlow v. Fitzgerald</i> , 457 U.S. 800, 818 (1982)	15
<i>Hartman v. Moore</i> , 547 U. S. 250 (2006)	15
<i>Hazel-Atlas Co. v. Hartford Co.</i> , 322 US 238 (1944)	10
<i>In re Murchison</i> , 349 U. S. 133	6
<i>In re LeFloris Lyon</i> , No. 11-60717 (5th Cir. 2011)	Passim
<i>Jennings v. Rodriguez</i> , 138 S. Ct. 830, 865 (2018)	24
<i>Johnson v. United States</i> , 520 U. S. 461, 468 (1997)	23
<i>Lawson v. FMR LLC</i> , 134 S. Ct. 1158 (2014)	Passim
<i>Liljeberg v. Health Services Acquisition Corp.</i> , 486 US 847 (1988)	5
<i>Lozman v. City of Riviera Beach</i> , 138 S. Ct. 1945 (2018)	15
<i>Luevano v. Wal-Mart Stores, Inc.</i> , 722 F.3d 1014 (7th Cir. 2013)	25

<i>Lyon v. Canadian National Railway Co. et al.</i> , Nos. 10-cv-00185 [13-cv-00913] (S.D. Miss.)	
Passim	
<i>Lyon v. Canadian National Railway, et al.</i> , [aka <i>Suppressed v. Suppressed</i>], No. 14cv03421 (N.D. Ill)	Passim
<i>Lyon v. United States of America et al.</i> , 2017 U.S. Dist. LEXIS 191672	Passim
<i>Manuel v. City of Joliet, Ill.</i> , 137 S. Ct. 911 (2017)	24
<i>Marshall v. Jerrico, Inc.</i> , 446 U.S. 238 (1980)	6
<i>Marinello v. United States</i> , 2018 WL 1402426 (March 21, 2018)	9
<i>Mathews v. Eldridge</i> , 424 U.S. 319, 332-33 (1976)	27
<i>Mine Workers v. Bagwell</i> , 512 U.S. 821, 826 (1994)	18
<i>Mt. Healthy City School District Board of Education v. Doyle</i> , 429 U.S. 274 (1977)	15
<i>Neder v. United States</i> , 527 U.S. 1, 7-8 (1999)	23
<i>Realty Trust, Inc. v. Somers</i> , 200 L. Ed. 2d 15 (2018)	3
<i>Salinas v. United States</i> , 522 US 52 (1997)	16
<i>Suntrust Mortg., Inc. v. Busby</i> , 2009 U.S. Dist. LEXIS 122251, *8-11	11
<i>Suppressed v. Suppressed</i> ,” [aka <i>Lyon v. CN, et al.</i>] No. 14cv03421 (N.D. Ill, 2014)	Passim
<i>Turner v. Rogers</i> , 564 U.S. 431 (2011)	18
<i>United States v. Sisimit-Sanic</i> , 2018 U.S. Dist. LEXIS 58669, *7.	27

<i>United States v. Wroblewski</i> , 816 F.3d 1021, 1023 (2016)	26
<i>United Student Aid Funds, Inc. v. Espinosa</i> , 559 U.S. 260 (2010)	8
<i>Wallis v. Executive Comm. of the U.S. Dist. Ct.</i> , 527 F. App'x 570, 572 (7th Cir. 2013)	8

CONSTITUTION

First Amendment	Passim
Fourth Amendment	Passim
Sixth Amendment	Passim

STATUTES

15 U.S.C. § 78u-6(h)(1)(B)(i)	10
18 U.S.C. § 371	3
18 U.S.C. § 401-402	20, 21, 23, 25
18 U.S.C. § 1030	15
18 U.S.C. § 1030(g)	15
18 U.S.C. § 1341	3
18 U.S.C. § 1343	3
18 U.S.C. § 1514A	Passim
18 U.S.C. § 1961(1)	Passim
18 U.S.C. § 1962(c)	16
18 U.S.C. § 1962(d)	16
18 U.S.C. § 2071	Passim
18 U.S.C. § 3006A	29
18 U.S.C. § 3146	21, 23, 25
18 U.S.C. § 3146(a)(1)	20
28 U.S.C. § 292(d)	Passim
28 U.S.C. § 294(b)	Passim
28 U.S.C. § 455(a)	Passim
28 U.S.C. § 455(b)	Passim
28 U.S.C. § 455(b)(1)	Passim
28 U.S.C. § 455(b)(5)	Passim
28 U.S.C. § 1254	1
28 U.S.C. § 1915(e)(1)	18

28 U.S.C. § 1915(e)(2) Passim
 28 U.S.C. § 1915(e)(2)(B) 28

RULES

Fed. R. Civ. P. 5.2(d-f) Passim
 Fed. R. Civ. P. 5.2(d)(2)(B) 13, 28
 Fed. R. Civ. P. 5(e) 14
 Fed. R. Civ. P. 12(b)(6) 25
 Fed. R. Civ. P. 54(b) Passim
 Fed. R. Civ. P. 60 Passim
 Fed. R. Civ. P. 60(b) Passim
 Fed. R. Civ. P. 60(d)(1) Passim
 Fed. R. Civ. P. 60(d)(3) Passim
 Fed. R. Crim. P. 4 22
 Fed. R. Crim. P. 5(a) 22, 27, 28
 Fed. R. Crim. P. 5(a)(1)(A) 22
 Fed. R. Crim. P. 32.1(a) 25
 Fed. R. Crim. P. 32.1(a)(1) 26
 Fed. R. Crim. P. 32.1(a)(2) 26
 Fed. R. Crim. P. 32.1(b)(1)(A) 26
 28 C.F.R. § 0.111(a) 22
 Local Rule 5.7(3)-(4) 11, 12
 Local Rule 26.2 11, 12

OTHER AUTHORITIES

Canon 1 19
 Canon 2A, 19
 Canon 2B..... 19
 Canon 3A..... 19, 20
 Canon 3B..... 19
 Canon 4G..... 19, 25
 Canon 4D(5) 19, 25

MISCELLANEOUS

NICI Criminal Code 5005 21
 NICI Criminal Code 5015 21

PETITION FOR WRIT OF CERTIORARI

Petitioner LeFloris Lyon respectfully petitions for a writ of certiorari to review the judgment of the U.S. Court of Appeals for the Seventh Circuit.

OPINIONS BELOW

The Seventh Circuit Orders of March 5, 2018 (App. 1a-4a); and prior opinions of the court of appeals dated October 11, 2017 (App. 6a-8a), is unpublished (App. 9a-11a). The relevant prior opinions of the district court dated August 15, 2014 (App. 80a-84a); September 4, 2014 (App. 85a-88a); September 16, 2014 (App. 89a-91a); August 11, 2017 (App. 123a-130a); November 8, 2017 (App. 145a-147a); November 29, 2017 (App. 148a), are unreported. The April 4, 2018 Seventh Circuit Order denying the petition for rehearing is unpublished (App. 5a).

STATEMENT OF JURISDICTION

The judgment of the court of appeals was entered on March 5, 2018 (App. 1a-4a). A petition for rehearing was denied on April 4, 2018 (App. 5a). On June 18, 2018 Justice Kagan extended the time within which to file a petition for a writ of certiorari to and including September 1, 2018. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).^{1 2}

¹ *No. 14-cv-3421* Entry (R.) PACER record link (<>).

² Appendix Vol. I (1a-79a); Vol. II (80a-168a, **Sealed**).

CONSTITUTIONAL, STATUTORY, AND PROVISIONS INVOLVED

The *First Amendment* to the United States Constitution provides, in relevant part, that “Congress shall make no law . . . abridging the freedom of speech . . . the right of the people . . . to petition the Government for a redress of grievances.

The *Fourth Amendment* provides in relevant part: The right of the people to be secure in their persons, houses, papers, and effects, against . . . unreasonable . . . seizures, shall not be violated, and *no Warrants shall issue, but upon probable cause, supported by Oath or affirmation.* . . .

The *Sixth Amendment* provides, in relevant part: “In *all criminal prosecutions*, the accused shall enjoy the right to a speedy and *public trial*, by an impartial jury of the State and *district wherein the crime shall have been committed*, which district shall have been previously ascertained by law, and to be *informed of the nature and cause of the accusation*; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and *to have the Assistance of Counsel for his defense.*”

STATEMENT OF THE CASE

Petitioner was jointly employed by Canadian National Railway Company (CN), and Wise Carter Child & Caraway, P.A. (Wise Carter), working directly or indirectly with Laird J. Pitz (CN Vice-President Risk Mitigation), Michael T. Novak (CN General Counsel), Constance Valkan (CN In-House General Counsel), George H. Ritter, James E. Graves III, Charles H. Russell III, and Daniel P. Jordan Esq. (Judge Jordan), Carlton W. Reeves Esq. (Judge Reeves), and others, collectively "CN."

On January 6, 2009, Petitioner filed a whistleblower complaint (R. 28-27, R. 28-29, Fn³) alleging CN shareholder fraud in violation of 18 U.S.C. § 1514A (SOX), 18 U.S.C. § 371 (conspiracy), 18 U.S.C. § 1341 (mail fraud), 18 U.S.C. § 1343 (wire fraud). Petitioner provided information directly to the Securities and Exchange Commission (SEC), and on November 5, 2010, filed *Lyon v. Canadian National Railway Co. et al.*, No. 10-cv-00185 [13-cv-00913] (S.D. Miss.), (R. 28-2, Fn⁴). Realty Trust, Inc. v. Somers, 200 L. Ed. 2d 15 (2018).

On May 9, 2014, Petitioner filed "*Suppressed v. Suppressed*," [aka *Lyon v. CN, et al.*] No. 14cv03421 (N.D. Ill), (Fn⁵), (Dkt. Fn⁶).

³ R. 28-27 <<http://www.omegaarchive.com/382.pdf>>

⁴ R. 28-22 <<http://www.omegaarchive.com/Z.pdf>>

⁵ R. 1 <<http://www.omegaarchive.com/K.pdf>>

⁶ Docket <<http://www.omegaarchive.com/3340.pdf>>

REASONS FOR GRANTING THE PETITION

Respondents requested revising the May 21, 2013, Rule 54(b) Judgment (App. 9a), enjoining Petitioner from bringing any claims, including claims he could not have brought and any future claims occurring after May 21, 2013, in any way related to the Rule 54(b) Judgment, including Petitioner's 2014 retaliatory arrests, detention, and retaliatory prosecution claims, to deprive Petitioner of his right to petition, "one of the most precious of the liberties safeguarded by the Bill of Rights," *BE&K Constr. Co. v. NLRB*, 536 U.S. 516, 524-525, 122 S. Ct. 2390, 2395-2396 (2002). (App. 9a).

I. Grant Certiorari To Decide Whether 28 U.S.C. §455(B)(5) Requires Vacature.

Petitioner shows CN and Wise Carter bribed Fifth Circuit Judge James E. Graves Jr., ("Judge Graves"), in exchange for employment of his son James E. Graves III (R. 33-12, page 35).

Petitioner alleges a RICO conspiracy involving corporations, lawyers, and public officials, with the most egregious misconduct *bribery of a judge*, and thus "raises matters of public concern" (App. 81a).

On October 5, 2011, Magnolia Bar member Judge Graves' conflict list named his son, when he did sit on the panel for Mandamus Petition *In re LeFloris Lyon*, No. 11-60717 and engaged in the most egregious misconduct: 1) on the part of an officer of the court; 2) directed to the judicial

machinery itself; 3) intentionally false, willfully blind to the truth, or in reckless disregard of the truth; 4) an intentional concealment when under a duty to disclose; and 5) deceives the court violating court rules, *intervened* on the record (R. 28-23, Fn⁷) on February 8, 2012, denying the October 5, 2011 Mandamus Petition *In re LeFloris Lyon*, No. 11-60717 (5th Cir. 2011) (R. 28-16, Fn⁸), poisoned the proceedings, establishing an official policy motivated by retaliation, an “unconscionable plan or scheme” to improperly influence decisions in the Fifth Circuit, effectively preventing Petitioner from fully and fairly presenting his case.

Petitioner contends Judge Graves’ failure to disqualify, is “fraud on the Court,” requiring vacature of his orders under 28 U.S.C. §§455(a), 455(b)(1), 455(b)(5), and *Liljeberg v. Health Services Acquisition Corp.*, 486 US 847 (1988).

A. 28 U.S.C. § 455(b) Issues.

The writ of certiorari should be granted to adopt: *Fowler v. Butts*, 829 F.3d 788, 794 (7th Cir. 2016). Citing: “*We expect pro se litigants to brush up on the law behind their claims; we do not require them to come across all other rules of the judicial system. Because the judge knows both the facts and the law about disqualification better than any litigant, even a litigant with a lawyer, it is well to stick with the statutory language: the judge must disqualify herself when the statute so*

⁷ R. 28-23 <<http://www.omegaarchive.com/G.pdf>>

⁸ R. 28-16 <<http://www.omegaarchive.com/01.pdf>>

provides whether or not the litigant files a motion."

District Judge Daniel P. Jordan III ("Judge Jordan") On August 16, 2012, granted Petitioner's renewed motion for disqualification (R. 28-41, Fn⁹). Judge Carlton W. Reeves (Magnolia Bar member) was assigned.

Magistrate Judge F. Keith Ball, Order granting Motion for recusal on October 20, 2011 (R. 28-19).

Magistrate Judge Linda R. Anderson (Magnolia Bar member), Order granting [318] motion for disqualification (October 25, 2012), (R. 28-44).

Judge Dow

On September 6, 2016, Petitioner submitted his Motion to "Reschedule" the "Initial Status Report," and "Motion for Disqualification" of Judge Dow (Fn¹⁰). Informed Judge Dow that he was the only person that can fully testify as to what he did *ex parte* and what information he provided Judge Reeves and excluded from the court records in the three intertwined cases: *Lyon v. United States of America et al.*, No. 16-cv-06833 (N.D. Ill); *Lyon v. Canadian National Railway, et al.*, No. 3:13-cv-00913 (S.D. Miss), (Fn¹¹); and *Lyon v. Canadian National Railway, et al.*, [aka *Suppressed v. Suppressed*], No. 14cv03421 (N.D. Ill).

Judge Dow's failure to recuse violated Petitioner's Due Process and Eighth Amendment

⁹ R. 28-41 <<http://www.omegaarchive.com/1479.pdf>>

¹⁰ <<http://www.omegaarchive.com/R009.pdf>>

¹¹ Docket <<http://www.omegaarchive.com/13cv00913.pdf>>

rights. The “Due Process Clause entitles a person to an impartial and disinterested tribunal in both civil and criminal cases.” *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242 (1980); accord *In re Murchison*, 349 U.S. 133, 136 (1955) (“A fair trial in a fair tribunal is a basic requirement of due process”).

The July 9, 2012 Order (R. 28-34, Fn¹²)

On July 9, 2012, District Judge Daniel P. Jordan III, affirmed Magistrate Judge Anderson’s compel Order (R. 33-10, Fn¹³, see transcript of hearing R. 28-43, Fn¹⁴), requiring Petitioner to produce a copy set and index of information “*in his immediate possession and control*,” and CN is required to identify each record in the index claimed as privileged, confidential or work product R. 28-34, Fn¹⁵).

On November 13, 2012, Petitioner complied with the July 9, 2012 Order and served CN and the Court with his “Rule 26 disclosures” “*in his immediate possession and control*,” (R. 35-15, Fn¹⁶). See hearing transcript at R. 28-66, Fn¹⁷, and Fn¹⁸).

¹² R. 28-34, <http://www.omegaarchive.com/001-174.pdf>

¹³ R. 33-10 <<http://www.omegaarchive.com/001-170.pdf>>

¹⁴ R. 28-43 <<http://www.omegaarchive.com/001-88.pdf>>

¹⁵ R. 28-34, <http://www.omegaarchive.com/001-174.pdf>

¹⁶ R. 35-15 <<http://www.omegaarchive.com/001-255.pdf>>

¹⁷ R. 28-66 <<http://www.omegaarchive.com/001-258.pdf>>

¹⁸ Petitioner produced a DVD disk, itemized 800 page index, in compliance with the Order of July 9, 2012.

Petitioner contends that on May 21, 2013, CN had intentionally failed to comply with the July 9, 2012 Order, based on retaliatory animus, without notice or any opportunity to object or be heard, Judge Reeves and CN held an *ex parte* hearing, implemented a retaliatory policy, agreed to fraudulent allegations and false statements that Petitioner did not comply with the Order of July 9, 2012 or file docket entry No. 347, Ex. A-Rule 26 DVD, and Ex. B-Initial Disclosures, presenting false and fabricated evidence, retaliated against Petitioner for his communications to Federal law enforcement and entered a fraudulent Final Judgment under Rule 54(b), deprived Petitioner of his right to petition, "one of the most precious of the liberties safeguarded by the Bill of Rights," *BE&K Constr. Co. v. NLRB*, 536 U.S. 516, 524-525, 122 S. Ct. 2390, 2395-2396 (2002).

Judge Reeves has failed to correct the May 21, 2013 transcript, which fraudulently shows the Honorable Henry T. Wingate U.S. District Court Judge presiding. Also see Docket Fn¹⁹.

Petitioner contends under Rule 60(b) the May 21, 2013, Rule 54(b) Judgment (App. 9a), deprived him of due process, notice and opportunity to be heard. *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, 270-271, 130 S. Ct. 1367, 176 L. Ed. 2d 158 (2010) (emphasis added).

¹⁹ Docket <<http://www.omegaarchive.com/13cv00913.pdf>>

Petitioner also contends no sanctions should be imposed without giving the litigant in question notice and a chance to respond. *Chambers v. NASCO, Inc.*, 501 U.S. 32, 36 (1991); *Wallis v. Executive Comm. of the U.S. Dist. Ct.*, 527 F. App'x 570, 572 (7th Cir. 2013).

The Rule 54(b) Judgment (App. 9a) should not prevent the filing of a Rule 60 independent action or new claims occurring after May 21, 2013, and is not a pre-filing order. A pre-filing order must be preceded by (1) *notice and opportunity to be heard before the Court enters the order*; (2) the compilation of an adequate record for review, a listing of the cases and/or abusive activities undertaken by the litigant; and (3) substantive findings concerning the frivolous and harassing nature of the plaintiff's litigation. See *De Long v. Hennessey*, 912 F. 2d 1144, at 1147-48 (9th Cir. 1990).

18 U.S.C. § 1513(e) implies retaliation occurs after a whistleblower reports wrongdoing. *DeGuelle v. Camilli*, 664 F.3d 192, 195, 204 (7th Cir. 2011); *Marinello v. United States*, 2018 U.S. LEXIS 1914, 2018 WL 1402426.

II. Grant certiorari to decide whether dismissing a Pro Se Fed. R. Civ. P. 60 complaint, contradicted 28 U.S.C. §1915, conflicting with all circuits.

Certiorari should be granted to correct an alleged policy of denying *pro se* litigants reasonable access to the court, contrary to 28

U.S.C. §1915, conflicting with *Denton v. Hernandez*, 504 U. S. 25 (1992).

On March 4, 2014, this Court decided *Lawson v. FMR LLC*, 134 S.Ct. 1158, 188 L.Ed.2d 158 (2014), holding the Sarbanes-Oxley Act of 2002, 18 U.S.C. § 1514A (“SOX”), protects employees of private contractors, and subcontractors of public companies.

On May 9, 2014, Petitioner filed his *Pro Se*, *in forma pauperis* (IFP), “independent action” styled “*Suppressed v. Suppressed*,” [aka *Lyon v. Canadian National Railway, et al.*], No. 14cv03421 (N.D. Ill), under temporary seal pursuant to Local Rule 5.7 (R. 1, Fn²⁰) asserting Fed. R. Civ. P. 60(b), Rule 60(d)(1) and (d)(3), “*fraud on the Court*,” within one year of the May 21, 2013, Rule 54(b) “Final Judgment” (App. 9a).

With independent jurisdiction pursuant to the Dodd-Frank Act 15 U.S.C. §78u-6(h)(1)(B)(i); and new claims under the Sarbanes-Oxley Act 18 U.S.C. § 1514A (SOX); RICO 18 U.S.C. §§ 1961 et seq., relying on *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 244 (1944).

The complaint exhibits (R. 1, CD, R. 28) with the complaint represents evidence of possible criminal violations including 18 U.S.C. § 4 (Misprision of felony). “*There is no “federal judge” exception that the court can find to this felony.*” *Suntrust Mortg., Inc. v. Busby*, 2009 U.S. Dist. LEXIS 122251, *8-11.

²⁰ R. 1 <<http://www.omegaarchive.com/K.pdf>>

III. Certiorari Should Be Granted To Decide Whether Rule 5.2(D-F) Requires A Sealing Order, A Question Of Recurring Importance.

A Writ of certiorari should be granted because: (1) there is a disagreement among the circuits on Fed. R. Civ. P. 5.2(d-f), sealing with or without a Sealing Order; (2) the Seventh Circuit decision is wrong; (3) a recurring issue of national importance; (4) sealing records and or sealing an entire case can result in denying a party or the public court access; (5) sealing public records as indicated by the numerous links to PACER records in this case illustrates the significance of the sealing issue; and (6) this case is an ideal vehicle to decide the issue.

On May 9, 2014, Petitioner filed his complaint and “Motion for Relief” requesting leave of court to file the Complaint *in camera under a temporary seal*, pursuant to Local Rules 5.7(3) and LR26.2.

Pursuant to Local Rule 5.7(a)(3)-(4), this case became public on the seventh day after filing or May 17, 2014, absent a Fed. R. Civ. P. 5.2(d-f) “Sealing Order.” Fn²¹.

²¹ LR 5.7(a)(3) ...*absent an order extending or setting aside the sealing, the file and its contents will become public on the seventh day following the date of filing*; and LR 5.7(a)(4). “Absent any order to the contrary, the contents of the case file shall be treated as restricted documents as defined by LR26.2 for seven days following

On June 30, 2014, pursuant to 28 U.S.C. §294(b) the Executive Committee reassigned District Judge Robert M. Dow, Jr., (“Judge Dow”), without a “Sealing Order” (R. 7).

On August 8, 2014, Judge Dow failed as required to forward Petitioner’s *unopposed motion* for service to the “Court Clerk” for docketing with the public case file (R. 8).

In direct conflict with Local Rules 5.7 and LR26.2, without a sealing order, Petitioner contends he relied on Judge Dow’s misrepresentation that the case was under seal from August 15, 2014 thru August 10, 2017 (App. 24a-27a, 29a-35a, 39a-51a, 53a-57a, 59a, 61a-63a, 65a).

On December 15, 2014 (R. 14-15), Petitioner submitted his “unopposed Motion for Relief,” and supporting memorandum *requesting unsealing this case*, including all Orders, and a detailed disclosure of all information forwarded to or shared with Judge Reeves (App. 13a-16a). Judge Dow excluded or removed this motion.

On December 23, 2014, Judge Dow directed Petitioner to refill his unopposed “Motion for Relief,” with exhibits (R. 16). Petitioner responded on December 31, 2014 (Fn²², Fn²³), (one of several records Judge Dow

the day on which the complaint was filed. Except as otherwise ordered, on the seventh day the file will no longer be treated as restricted.”

²² <<http://www.omegaarchive.com/16D.pdf>>

²³ Email <<http://www.omegaarchive.com/12-31-14.pdf>>

removed or excluded from the docket) with exhibits and requesting clarification why Judge Dow permitted papers to be filed with him, but did not transmit them to the Court clerk, pursuant to Fed. R. Civ. P. 5(d)(2)(B).

On May 13, 2015, Judge Dow responded to the December 31, 2014 reply and entered an Order (R. 20), stating the Courtroom Deputy had forwarded Petitioner's filings by e-mail to Judge Dow and *the case is maintained under seal*, but not *in camera* and the Court is not aware of any authority to maintain a case in camera.

On November 21, 2016, Petitioner as the only party filing an appearance (R. 5), after being denied access to the court record since May 9, 2014 and contrary to LR26.2(g), "Disposition of Restricted Documents" and being directed to Judge Dow's chambers (*in camera*), Petitioner filed his "third unopposed motion to unseal the entire record," and direct the Court Clerk to docket the entire case *Suppressed v. Suppressed*, No. 1:14-cv-03421 (N.D. Ill) record on the CM/ECF system (R. 21, R. 22) and December 7, 2016 (R. 24, R.25, R. 26). Judge Dow granted the Motions on November 29, 2016 (R. 23) and December 12, 2016 (R. 27).

Petitioner contends Judge Dow maintained the entire court record *in camera* from June 30, 2014, until December 1, 2016, and then altered, removed or excluded many of the original records, failing to forward pursuant to Fed. R. Civ. P. 5(d)(2)(B) the entire record to the Court Clerk on December 1, 2016, contrary to 18 U.S.C.

§ 2071 failed to maintain true and correct records, failed to make the appropriate corrections of records removed or excluded, pursuant to Fed. R. App. P. 10(e), failing to forward the entire record on appeal, failed to comply with the January 14, 2015, No. 15-1010 Circuit Order, requiring Judge Dow to forward the notice of appeal and not just one page (R. 12).

Petitioner has prepared a listing of the missing records excluded or removed from *Lyon v. Canadian National Railway, et al.*, [aka *Suppressed v. Suppressed*], No. 14cv03421 (N.D. Ill) <<http://www.omegaarchive.com/missing.htm>>.

Petitioner contends the case commenced on December 1, 2016, when the Court Clerk docketed the complaint, Fed. R. Civ. P. 5(e). <<http://www.omegaarchive.com/3340.pdf>>.

On August 11, 2017, Judge Dow on his own motion, resealed the case, and ruled that his *ex parte* communications with Judge Reeves' is privileged communications, and he had no obligation to release his communications with other judges, failed to disclose or place all of the communications regarding Judge Reeves on the docket (Tr. App. 103a-104a).

On November 8, 2017, (App. 145a-147a), Judge Dow entered Orders granting Respondents amended emergency motion to reseat the entire case, which Judge Dow had already done on August 11, 2017 on his own motion, and denied Petitioner's motions for additional time to respond to Respondents amended motion (which was stricken as moot); denied Petitioner's motion to seek counsel, or in

the alternative for appointment of counsel and on November 29, 2017 again denied Petitioner's motion for correction or modification of the record. (App. 148a).

IV. Certiorari Should Also Be Granted To Decide Retaliatory Prosecution And Fraudulent Arrest Warrants Supports A Cause Of Action.

The writ of certiorari should be granted because this Court recently decided *Lozman v. City of Riviera Beach*, 138 S. Ct. 1945, 1948, 201 L. Ed. 2d 342, 346 (June 18, 2018), holding *Hartman* or *Mt. Healthy* governs a determination that must await a different case or this case. It is well-established that federal officers sued under *Bivens* are liable for damages when they violate "clearly established statutory or actual constitutional rights of which a reasonable person would have known." *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982).

In *Hartman v. Moore*, 547 U. S. 250, this Court held that a plaintiff alleging retaliatory prosecution must show the absence of probable cause for the underlying criminal charge, *id.*, at 265-266. If the plaintiff proves the absence of probable cause, then the *Mt. Healthy* test governs. Pp. 6-10. *Lozman v. City of Riviera Beach*, 2018 U.S. LEXIS 3691, 585 U. S. ____ (2018).

On July 25, 2014, Judge Reeves granted CN an additional Final Judgment designed to

disrupt *Suppressed v. Suppressed*, [aka *Lyon v. Canadian National Railway, et al.*], No. 14cv03421 (N.D. Ill), (App. 10a-12a), a result of the December 7, 2010, CN fraudulent counter claim (R. 28-4), back dated "Certificate Of Service," to November 24, 2010, improperly alleged Petitioner violated the Computer Fraud and Abuse Act ("CFAA"), 18 U.S.C. § 1030, (response R. 28-11, 28-12, 28-13). The relevant provision of CFAA, 18 U.S.C. § 1030(g), requires bring suit within two years of the November 18, 2008, email regarding Petitioner's personal PC (R. 28-12, Fn²⁴). On April 10, 2012, Judge Jordan published his decision (R. 28-24, Fn²⁵).

On or about August 8, 2014, CN employed Judge Reeves to "proactively," represent CN in this Illinois case, obtained a copy of the complaint, produced copies to CN and ordered Petitioner to dismiss (see CN August 10, 2017 email, App. 20a-23a, at App. 20a).

Petitioner alleges Judge Reeves' Court is an "enterprises" conducting racketeering activity in violation of 18 U.S.C. § 1962(c) and conspired to do so in violation of 18 U.S.C. § 1962(d), to initiate retaliatory criminal proceedings without probable cause. ... "[a] conspiracy to violate RICO may be shown by proof that the defendant, *by his words or actions*, objectively manifested an agreement to participate, directly or indirectly, in the affairs of an enterprise"; mere

²⁴ R. 28-12 <<http://www.omegaarchive.com/001-71.pdf>>

²⁵ R. 28-24 <<http://www.omegaarchive.com/001-72.pdf>>

participation is not enough. *DeGuelle v. Camilli*, 664 F.3d 192, 204 (7th Cir. 2011) (emphasis added). However, once the plan is in place, a partner, supporter, or even a third party who agreed to participate can be guilty of RICO conspiracy. *Salinas v. United States*, 522 US 52 (1997).

On August 12, 2014, Judge Reeves' initiated criminal contempt proceedings, hand-delivered an "Order to Show Cause," to the United States Marshal Service ("USMS"). Judge Reeves' conduct was a materially adverse action against Petitioner because of statutorily protected activity. See *Freelain v. Village of Oak Park*, 888 F.3d 895, 901 (7th Cir. 2018). The materially adverse action in retaliation context, "would have dissuaded a reasonable worker from engaging in protected activity." *Id.* at 901-02 (quoting *Burlington N. & Santa Fe Ry. Co. v. White*, 548 U.S. 53, 68 (2006)).

On August 14, 2014, at 2:45 PM, Petitioner: (1) requested counsel; (2) requested a copy of the District Court docket; (3) requested clarification of the Order to Show Cause, to be adequately advised of the charges; (4) requested USMS provide transportation to the hearing on August 18, 2014; and other requests (See MSSD Docket 13cv00913, Fn²⁶).

On August 14, 2014, at 04:56 PM, Judge Reeves appeared in *Suppressed v. Suppressed*, [aka *Lyon v. CN Railway*, et al.], No. 14-cv-03421

²⁶ Docket <<http://www.omegaarchive.com/13cv00913.pdf>>

(N.D. Ill), by email, and by voicemail (App. 83a, 133a, 144a).

Petitioner contends Judge Reeves was corruptly endeavoring to obstruct or impede the due administration of a judicial proceeding in the Northern District Court of Illinois, by “proactively” representing CN (App. 76, “proactively remedied the filing of that [this] lawsuit”), engaged in *ex parte* communications and submissions, informed Judge Dow that Petitioner was being subjected to criminal contempt proceedings, that a show cause order set a hearing for August 18, 2014 (App. 83a).

Petitioner contends Judge Dow was required to consider Petitioner’s pending motion (R. 5) requesting appointment of counsel under 28 U.S.C. § 1915(e)(1). The February 10, 2012, CN and Magistrate Judge Linda R. Anderson (“Magistrate Anderson”) revised Mississippi “Protective Order” to prevent Petitioner from seeking legal counsel (R. 28-22, Fn²⁷).

“Criminal contempt is a crime in the ordinary sense,” therefore, criminal contemnors are entitled to “the protections that the Constitution requires of such criminal proceedings,” including the right to counsel. *Mine Workers v. Bagwell*, 512 U.S. 821, 826, 114 S. Ct. 2552 (1994) (citing *Cooke v. United States*, 267 U.S. 517, 537, 45 S. Ct. 390 (1925); internal

²⁷ < <http://www.omegarchive.com/229.pdf> >

quotation marks omitted). *Turner v. Rogers*, 564 U.S. 431 (2011).

Contradicting 28 U.S.C. §292(d)

Petitioner contends Judge Dow “*In aid of the Mississippi district court’s jurisdiction*” . . . (App. 83a), and Judge Reeves performed service in two cases, one in Illinois, *Suppressed v. Suppressed, [aka Lyon v. CN Railway, et al.]*, No. 14-cv-03421 (N.D. Ill), and one in Mississippi, *Lyon v. Canadian National Railway, et al.*, No. 3:13-cv-00913 (S.D. Miss), may have violated his duty and authority contradicting 28 U.S.C. §292(d), because only the Chief Justice of the United States may designate and assign temporarily a district judge of one circuit for service in another circuit, either in a district court or court of appeals, upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit wherein the need arises.

On August 15, 2014, Judge Dow aided Judge Reeves’ criminal proceeding (App. 80a-84a), engaged in *ex parte communications and ex parte submissions*, without notice providing Judge Reeves with a copy of the allegedly sealed complaint, amounting to a “clear abuse of discretion,” contradicting Canons 1, 2A, 2B, 3A, 3B, and 4G, Canon 4D(5), which expressly prohibits use or disclosure, “[a] judge should not disclose or use nonpublic information acquired in a judicial capacity for any purpose unrelated to the judge’s official duties.”

The governing rule is Canon 3A(4) of the Code of Conduct for United States Judges, providing that “[a] judge should accord to every person who is legally interested in a proceeding, or the person’s lawyer, full right to be heard according to law, and, except as authorized by law, neither initiate nor consider *ex parte* communications on the merits, or procedures affecting the merits, of a pending or impending proceeding...”.

Both judges and court personnel have an obligation to keep confidential certain court materials. In order to clarify the extent of that obligation, Chief Judge Diane P. Wood decided to make public an opinion she requested from the Judicial Conference Committee on Codes of Conduct, October 11, 2017.

<[http://www.ca7.uscourts.gov/rules-procedures/Confidential Court Materials.pdf](http://www.ca7.uscourts.gov/rules-procedures/Confidential%20Court%20Materials.pdf)>

Judge Dow aiding Judge Reeves’ resulted in the illegal arrest of Petitioner on August 19, 2014, and September 9, 2014 (Fn²⁸).

On August 18, 2014, after Petitioner called Judge Reeves’ chambers, and was denied participation by phone, thereafter Judge Reeves held a hearing and without probable cause issued a Bench Warrant and Arrest Warrant, under NICI Criminal Code 5015, “failure to appear,” 18 U.S.C. §3146(a)(1) as required by the

²⁸ Proposed amended complaint, R. 64, *Lyon v. Canadian National, et al.*, No. 1:16-cv-06833 (N.D. Ill)) <<http://www.omegaarchive.com/1353.pdf>>

conditions of release and a Warrant under 18 U.S.C. §401-402, criminal contempt of court (NICI Criminal Code 5005), (Fn²⁹).

Petitioner a witness, argues the issuance of a arrest warrant, when there is no probable cause to believe he violated 18 U.S.C. §3146, or any condition of release, **because he had not been arrested or charged and released under Chapter 207**, and thus could not have violated section 3146(a)(1) or a summons by failing to appear at the August 18, 2014 hearing, after he was denied participation by phone and had given notice and informed the court he could not attend in person.

On August 19, 2014, because Judge Dow engaged in *ex parte communications and ex parte submissions*, and aided Judge Reeves' illegal criminal proceeding, Petitioner was arrested without probable cause under 18 U.S.C. §3146, for "failure to appear," and under 18 U.S.C. §§401-402, criminal contempt of court in the closed case, *Lyon v. Canadian National Railway, et al.*, No. 3:13-cv-00913 (S.D. Miss), this portion of the criminal case was closed on August 19, 2014 (at Pg. 4, Fn³⁰), which is the subject of Petitioner's Administrative Tort Claims Nos. OGC 50432 and No. 49658 (Fn^{31, 32}).

²⁹ <<http://www.omegaarchive.com/0265.pdf>>

³⁰ <<http://www.omegaarchive.com/0269.pdf>>

³¹ <<http://www.omegaarchive.com/O.pdf>>

³² <<http://www.omegaarchive.com/P.pdf>>

On August 19, 2014, Judge Reeves in open court while Petitioner was in the custody of USMS, in full restraints consisting of leg shackles and handcuffs (also referred to as “five point restraints”), Judge Reeves violated Petitioner’s *Fourth, Fifth, Sixth, Eight and Fourteenth* Amendment rights to the Constitution, including denying Petitioner’s motion for counsel, access to a complete copy of the District Court docket, and denied Petitioner required medical care, (App. 18a-72a, Tr. Fn³³, Pg. 4-7), violating 28 C.F.R. § 0.111(a), Fed. R. Crim. P. 4, and 5(a)(1)(A). Petitioner stated: “*So if you need to do anything further, I want counsel.*” (App. 57, Tr. Fn 23, Pg. 5, 46, 51). “*I am going to invoke my Fifth Amendment and state to you clearly that I am mentally and physically incapable of doing anything else, going any further.*” (App. 65, Tr. Fn 23, Pg. 58, 61).

On August 21, 2014, while Petitioner was hospitalized as a result of mistreatment on August 19, 2014 (including being denied water and medical care, see App. 55a-59a, Tr. Fn 23, Pg. 50, 52-53,), Judge Reeves granted CN’s Motion for criminal contempt, and stated: “*Moreover, a substantial portion of the ninety-five page verified Complaint, with its 318 paragraphs, accuses parties, counsel, and various judicial officers of this Court and a judge of the Fifth Circuit Court of Appeals of criminal conduct, even referring to the judicial officers as “co-conspirators.”*” (App. 140a).

³³ <<http://www.omegaarchive.com/L.pdf>>

On September 2, 2014, Petitioner requested help from Judge Dow's Court by submitting an "emergency motion for a criminal referral" (R. 44-2, Fn³⁴) with notice of the events on August 19, 2014.

On September 3, 2014, Judge Reeves entered an Order setting an additional Show Cause hearing for September 4, 2014, Petitioner was unable to appear at the hearing, and called Judge Reeves' chambers, and was denied participation by phone. Judge Reeves obtained Orders of Dismissal in *Suppressed v. Suppressed*, (N.D. Ill), and continued to Email copies to CN.

Judge Reeves entered a Text-Only Order denying petitioner's September 4, 2014, motions for counsel, and notice of his Fifth Amendment rights. See *Neder v. United States*, 527 U.S. 1, 7-8 (1999) (structural errors or "fundamental constitutional errors" that defy analysis by "harmless error" standards") (quoting *Arizona v. Fulminante*, 499 U.S. 279, 309 (1991)); (citing *Johnson v. United States*, 520 U. S. 461, 468 (1997), in turn citing *Gideon v. Wainwright*, 372 U. S. 335 (1963) (complete denial of counsel).

Judge Reeves the prosecutor entered additional Orders without probable cause to issue an Arrest Warrant [replaced magistrate with district], Bench Warrant For Arrest under 18 U.S.C. §3146, for "failure to appear," and 18

³⁴ R. 44-2, <http://www.omegaarchive.com/1871.pdf>>.

U.S.C. §§401-402, criminal contempt of court (Fn³⁵).

The Fourth Amendment requires that arrest warrants be based “upon probable cause, supported by Oath or affirmation” -- a requirement that may be satisfied by an indictment returned by a grand jury, but not by the mere filing of criminal charges or unsworn information signed by the prosecutor. *Gerstein v. Pugh*, 420 U.S. 103, 117, 43 L. Ed. 2d 54, 95 S. Ct. 854 (1975); see also *Coolidge v. New Hampshire*, 403 U.S. 443, 29 L. Ed. 2d 564, 91 S. Ct. 2022 (1971).

This Court has held that: “A person charged with a crime cannot be confined at all without a finding of probable cause that he or she committed the crime.” *Jennings v. Rodriguez*, 138 S. Ct. 830, 865, 200 L. Ed. 2d 122, 164 (2018).

This Court has recognized the Fourth Amendment establishes “the standards and procedures” governing pretrial detention. See, e.g., *Gerstein v. Pugh*, 420 U. S. 103, 111, 95 S. Ct. 854, 43 L. Ed. 2d 54 (1975). And those constitutional protections apply even after the start of “legal process” in a criminal case—after the judge without determination of probable cause, issued arrest warrants, pretrial detention can violate the Fourth Amendment when it follows, the start of legal process. The Fourth

³⁵ <<http://www.omegaarchive.com/0269.pdf>>

Amendment prohibits government officials from detaining a person absent probable cause. The Fourth Amendment, establishes the minimum constitutional “standards and procedures” not just for arrest but also for ensuing “detention.” *Id.*, *Manuel v. City of Joliet*, 137 S. Ct. 911, 914-915, 197 L. Ed. 2d 312, 317-318 (2017).

Dismissed Pro Se Complaint.

On September 4, 2014, Judge Dow dismissed *Suppressed v. Suppressed*, [aka *Lyon v. Canadian National Railway, et al.*], No. 1:14-cv-03421 (N.D. Ill), denied Petitioner’s “Emergency Motion for a Criminal Referral and Related Relief,” filed on September 2, 2014 (App. 85a-88a, R. 10, Fn³⁶), (Fn³⁷), declined to rule on any pending motions, including the application for leave to proceed *in forma pauperis*, and attorney representation (App. 85a-88a).

The Seventh Circuit erred—in conflict with the decisions of every other federal court of appeals and this Court—pursuant to 28 U.S.C. § 1915(e)(2), the Court is required to screen all complaints accompanied by an *in forma pauperis* request for failure to state a claim. See *Luevano v. Wal-Mart Stores, Inc.*, 722 F.3d 1014, 1018 (7th Cir. 2013). Courts screen claims under Section 1915(e)(2) in the same manner as ordinary Federal Rule of Civil Procedure 12(b)(6) motions to dismiss. *Id.* at 1024-25. A motion under Rule 12(b)(6) challenges the sufficiency of the complaint. See *Hallinan v. Fraternal Order of Police of Chi. Lodge No. 7*, 570 F.3d 811, 820

³⁶ R. 10 <<http://www.omegaarchive.com/1900.pdf>>

³⁷ <<http://www.omegaarchive.com/1871.pdf>>

(7th Cir. 2009). *Armstrong v. Villa Park Police Dep't*, 2015 U.S. Dist. LEXIS 191497, *1.

On September 8, 2014, petitioner filed a Notice of Appeal in *Suppressed v. Suppressed*, which was excluded from the record.

On September 9, 2014, without probable cause Petitioner was arrested by USMS Deputies Tim Sanford & John Doe on Warrants without probable cause for failure to appear under 18 U.S.C. §3146, (NICI Criminal Code 5015), and under 18 U.S.C. §401-402, criminal contempt of court (NICI Criminal Code 5005). Petitioner was shackled, assaulted by USMS, denied medical care, held in the courthouse lockup for more than five hours, without any hearing or detention order, informed he would not appear before a judge that week, transported, shackled in a wheelchair, booked and jailed at the Madison County Detention Center (MCDC) (Fn³⁸, & Fn³⁹).

Fed. R. Crim. P. 32.1(a), provides that if he is held in custody for an alleged supervised release violation, he must be taken before the court for an initial appearance. *United States v. Wroblewski*, 816 F.3d 1021, 1023 (2016). The correct procedure in proceedings is set forth in Fed. R. Crim. P. 32.1(b)(1)(A), when a Defendant is in custody, a magistrate judge must promptly conduct a hearing to determine whether there is probable cause to believe that a violation

³⁸ <<http://www.omegaarchive.com/N.pdf>>

³⁹ <<http://www.omegaarchive.com/P.pdf>>

occurred. Fed. R. Crim. P. 32.1(b)(1)(C). *United States v. Sisimit-Sanic*, 2018 U.S. Dist. LEXIS 58669, *7. Also see Fed. R. Crim. P. 32.1(a)(1)-(2). At the initial appearance, the district court may release or detain the defendant under 18 U.S.C. § 3143(a)(1), a provision of the Bail Reform Act found in Chapter 207, pending further proceedings.

The Due Process Clause of the Fifth Amendment guarantees that “[n]o person shall . . . be deprived of life, liberty, or property, without due process of law.” This Court has held that “some form of hearing is required before an individual is finally deprived of a property interest,” including the right to notice and an opportunity to be heard at a meaningful time and in a meaningful manner. *Mathews v. Eldridge*, 424 U.S. 319, 332-33 (1976).

On September 10, 2014, Judge Reeves disregarded Fed. R. Crim. P. 5(a), “*An arrested person shall be taken before a magistrate judge without unnecessary delay*,” entered an Order directing USMS to bring Petitioner before him on September 15, 2014, without counsel to address the CN motions for criminal contempt sanctions. This Court has recognized that delay or no hearing related to detention itself can violate constitutional guarantees of due process. See *Gerstein v. Pugh*, 420 U.S. 103, 125-126 (1975) (detention requires a “timely judicial determination” of probable cause before or promptly after arrest). For a right to be clearly

established, “[t]he contours of the right must be sufficiently clear that a reasonable official would understand that what he [or she] is doing violates that right.” *Anderson v. Creighton*, 483 U.S. 635, 640 (1987).

On September 15, 2014, Petitioner remained jailed at MCDC without a Fed. R. Crim. P.5(a) hearing, and was brought before Judge Reeves’ shackled in a wheelchair, without counsel, to answer Judge Reeves’ questions regarding respondents August 8, 2014, motions for contempt sanctions. Petitioner requested medical care, requested information Judge Reeves obtained *ex parte* from the Illinois case, Judge Reeves continued the hearing to October 15, 2014.

On September 16, 2014, Judge Dow continued to aide Judge Reeves’ criminal proceeding, engaging in *ex parte communications and ex parte submissions*, while Petitioner remained jailed at MCDC. Judge Dow denied Petitioner’s motion to proceed on appeal *in forma pauperis*. Petitioner raised non-frivolous claims, and thus dismissal under 28 U.S.C. § 1915(e)(2)(B) was improper. (App. 89a-91a). Petitioner contends he satisfied the requirement that his appeal *in forma pauperis* was taken “in good faith” without frivolous issues. *Coppedge v. United States*, 369 U.S. 438, 439-445 (1962).

However Judge Dow removed and excluded Petitioner’s September 8, 2014, Notice of Appeal, Notice and Motion to Proceed on Appeal *In Forma Pauperis*; Memorandum in support of Motion to Proceed *In Forma Pauperis*

and Affidavit Accompanying Motion for Permission to Appeal *In Forma Pauperis*, from the Court Clerk in violation of Fed. R. Civ. P. 5(d)(2)(B), and 18 U.S.C. § 2071.

On October 15, 2014, Petitioner remained jailed at MCDC, without a Fed. R. Crim. P.5(a) hearing or counsel, brought before Judge Reeves' shackled in a wheelchair, to answer Judge Reeves questions regarding respondents August 8, 2014, motions for contempt sanctions. Again petitioner requested medical care, requested information pertaining to any justification for his incarceration. Judge Reeves failed again to provide medical care or any information, and continued the hearing on the CN motions to November 7, 2014.

The Seventh Circuit decided similar cases in *Coleman v. Frantz*, 754 F.2d 719 (7th Cir.1985) and *Armstrong v. Squadrito*, 152 F.3d 564 (7th Cir.1998). In *Coleman*, an 18-day detention after arrest by warrant, but before an initial appearance, violated *Coleman's* substantive due process rights. 754 F.2d at 723-24. The Seventh Circuit followed *Coleman* in the *Armstrong* case, where a 57-day detention on a (civil) body-attachment warrant without an initial appearance violated substantive due process. The court looked to the totality of circumstances. *Armstrong*, 152 F.3d at 570, citing *County of Sacramento v. Lewis*, 523 U.S. 833, 850 (1998). It considered three questions: (1) whether the Due Process Clause prohibits an extended detention, without an initial

appearance, following arrest by a valid warrant; (2) whether the conduct offended the standards of substantive due process; and (3) whether the totality of circumstances shocks the conscience. *Armstrong*, 152 F.3d at 570. Petitioner's 59-day detention, under *Lewis* violates his substantive due process rights.

On November 4, 2014, Judge Reeves appointed S. Dennis Joiner (under the Criminal Justice Act of 1964, see 18 U. S. C. § 3006A) for the limited purpose of the November 7, 2014, hearing on respondents motions for contempt sanctions. On November 5, 2014, Mr. Joiner informed Petitioner that he would not address Petitioner's request for medical care, or imprisonment without a Rule 5(a) hearing or charge or order, or any other issue other than respondents motions for contempt sanctions..

On November 7, 2014, petitioner testified presenting the identical testimony and statements made on August 19, 2014 (Tr. App. 24a-79a) and his August 14, 2014 fillings' that on November 10, 2012, Petitioner produced an 802 page index, and DVD of records; and on November 13, 2012, he fully complied with the court Order of July 9, 2012, that he fully complied with the July 25, 2014, Judgment and deleted his Rule 16 database as evidenced by exhibits to respondents August 8, 2014, motions for contempt sanctions; and petitioner's Declarations and filings on August 14, 2014;

August 25, 2014, and testimony on August 19, 2014. (Fn⁴⁰).

On May 6, 2016, CN retaliated against Petitioner, a former employee by taking actions not directly related to his employment that did cause him harm outside the workplace by filing “false criminal charges” claiming that a Privacy Act request was criminal contempt, failing to cite any provision of law violated or any order or judgment supporting the claims and charge, filed an Emergency Motion to enforce the fraudulent July 25, 2014, Final Judgment & Permanent Injunction, which was fully satisfied on August 4, 2014. (Citing *Berry v. Stevinson Chevrolet*, 74 F.3d 980 (10th Cir. 1996)).

Furthermore CN was dismissed on April 10, 2012, yet submitted a proposed Order in retaliation. *See* June 2, 2017, Petitioner filed a Proposed Amended Complaint and Independent Action in Equity, (N.D. Ill, Case No. 16 CV 06833) (Fn⁴¹) and DOL Order of Dismissal, to Bring An Action In U.S. District Court Pursuant to 18 U.S.C. Section 1514(b), and 29 CFR 1980.114, (January 9, 2017, App. 17a-19a).

On June 19, 2017, Judge Dow entered an Order denying Petitioner’s motions to disqualify or recuse Judge Dow and for reconsideration of the Court’s June 12, 2017 transferring the case to Mississippi denied, *Lyon v. United States of America et al.*, 2017 U.S. Dist. LEXIS 191672.

⁴⁰ <<http://www.omegaarchive.com/US.pdf>>

⁴¹ <<http://www.omegaarchive.com/1353.pdf>>

On August 9, 2017, Petitioner filed an additional motion to disqualify Judge Dow (R. 41, R. 42), with a Notice for hearing on August 15, 2017.

On August 10, 2017, CN sent an email to Judge Reeves, requesting an emergency hearing in *Lyon v. Canadian National Railway, et al.*, [aka *Suppressed v. Suppressed*], No. 14cv03421 (N.D. Ill) (App. 20a-23a, Fn⁴²) and attached the CN Emergency Notice of Non-Compliance (Fn⁴³); Petitioner's Motion to Unseal this case (R. 21, Fn⁴⁴); Judge Dow's Order Unsealing the Record (R. 23, Fn⁴⁵); Petitioner's Motion to Disqualify Dow (R. 41, Fn⁴⁶); Petitioner's Motion for Recusal (R. 42, Fn⁴⁷); Petitioner's Notice of Hearing for Motion for Recusal (R. 43, Fn⁴⁸).

On August 10, 2017, Judge Dow off the record beyond the email CN sent to Judge Reeves on August 10, 2017, *ex parte* set an emergency hearing for August 11, 2017, at 1:30 PM (Tr. App. 92a-122a).

On August 11, 2017, Judge Dow entered an order (App. 123a-130a) denying Petitioner's Rule 60 motion (R. 37) and both motions for recusal (R. 41, 42), and resealed the record on his

⁴² <<http://www.omegaarchive.com/B1.pdf>>

⁴³ <<http://www.omegaarchive.com/B2.pdf>>

⁴⁴ R. 21 <<http://www.omegaarchive.com/B3.pdf>>

⁴⁵ R. 23 <<http://www.omegaarchive.com/B4.pdf>>

⁴⁶ R. 41 <<http://www.omegaarchive.com/B5.pdf>>

⁴⁷ R. 42 <<http://www.omegaarchive.com/B6.pdf>>

⁴⁸ R. 43 <<http://www.omegaarchive.com/B7.pdf>>

own motion (R. 49), contrary to Seventh Circuit law concerning the sealing of entire cases, contrary to Judge Dow's earlier orders (App. 80a-84a).

CONCLUSION

The judgment of the court of appeals should be reversed, and the case should be remanded for further proceedings.

Respectfully submitted.

A handwritten signature in cursive script, appearing to read "LeFloris Lyon", written over a horizontal line.

LeFloris Lyon (*Pro Se*)
P.O. Box 87245
Chicago, IL 60680
Phone - 601) 259-0033
Email: leflorislyon@gmail.com