ORIGINAL

No. 18-8962

In The United States Supreme Court

Ronald Collins, Jr.

Petitioner

v.

Kristen Keller

Respondent

FILED
MAR 16 2019
OFFICE OF THE CLERK
SUPREME COURT, U.S.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

Petition for Writ of Certiorari

Ronald Collins, Jr.
Pro Se

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SUPREME COURT, U.S.

Questions Presented:

The Petitioner, Ronald Collins Jr., comes before the Honorable U.S. Supreme Court asking more then one question of what he feels is exceptionally important. questions;

1) Is the Jurisdictional issue of Appeals Court to hear an appeal under Federal Rules of Civil Proceedure 8 (c) (1) as applied to Rule 60 (b) (1) (2) (3) and/or (6)?

2) Does 28 U.S.C. 2107 (c) which allows a district court to extend the 30 day to appeal, limit an Appeals Courts from envoking Rule 60 (d) (1) & (3) to ~~exha~~ examine cases gross abuse of authority by the district court?

3) Does Fed. R. App. P. 4 (a) (1) (A), 4 (a) (5) & 4 (a) (6) not present exceptions under Fed. R. App. P. Rule 60 (b) (1) (2) (3) and/or (6), applied with or without Fed. R. App. P. Rule 8 (C) (1) and, the Appeals Courts Authority under Fed. R. App. P. Rule 60 (d) Other Powers to Grant Relief. (1) or (3)?

4) Does Fed. R. App. P. Rule (d) (1) & (3) not apply in the face of a district courts abuses of authority?

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Petition for Writ of Certorai

The Petitioner, Ronald Collins, Jr., respectfully petitions for a Writ of Certorari to review the judgement of the United States Court of Appeals for the Fourth Circuit, to determine if the Appeals Court erred in Dismissal and had jurisdiction under Fed. R. App. P. 60(b), (c) & (d).

Opinion Below:

The Fourth Circuits initial opinion was filed on January 24th 2019 after appeal to the Fourth Circuit on grounds that the District Court rendered an opinion ignoring material & statutory evidence, Ronald Collins, Jr. v. Kristen Keller 5:17-cv-01330 & United States Court of Appeals Fourt Circuit case number 18-2432.

The Fourt Circuit Court wrote in it's PER CURIAM "Ronald Collins, Jr., seeks to appeal the district courts order dismissing his complaint filed pursuant to 28 U.S.C. § 2255 (2012). We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed."

The PER CURIAM cites Fed. R. App. P. 4(a)(1)(A), Fed. R. App. P. 4(a)(5), Fed. R. App. P. 4(a)(6) & Bowles v. Russell, 551 U.S. 205, ~~2014~~ 214 (2007). "[T]he timely filing of a notice of appeal in a civil case is a juridictional requirement."

Jurisdiction:

In accordance with Federal Rules of Appeals Proceedure, Rule 36 (Fed. Rule App. R. 36), the Petition for Certiorari must be filed with 90 days of the Appeals Court entry, providing a deadline of March 24th, 2019.

The Fourth Circuit issued it's judgement on January 24th 2019, the jurisdicition of the U.S. Supreme Court is envoked under

Relevant Constitutional & Statutory Provisions:
The Fourth Circuit Appeals Court dismissed the Petitioner's lawsuit 28 U.S.C. § 2107(a) & rules 4(a)(1)(A), 4(a)(5), 4(a)(6) & Bowles v. Russell, 551 U.S. 205. due to an untimely filing.
The Petitioner, argues that due to the time restriction on filing &, the jail's habit of not allowing prompt or, even consistant access to a law library to properly research a response. Which this Honorable Courts Rule 13.1 provides such a period. Under ~~Rule~~ RC 28 U.S. § 2107 (C) "The district court may upon motion filed no later than 30 days after the expiration of the time for appeal upon a showing of excussble neglect or good cause."
Yet, the Petitioner feels that asking for such a motion would be irrelevant considering the district court's own bias against the Petitioner. More so, the Petitioner would cite Fed. Rule App. B. Rule 60(b);
"Grounds for Relief from a judgement, Order or Proceeding. On motion & just terms, the court may relieve a party or, it's legal representative from a final judgement, order or proceeding for the following reasons;
(1) mistake, inadventure, surprise or excussble neglect;
(2) newly discovered evidence that with reasonable diligence could not have been discovered by the opposing party,

(3) fraud (whether previously called intrinsic or extrinsic), misrepresentation or, misconduct by an opposing party.

...

(6) any other reason that justifies relief.

Which as the Petitioner will cite from Rule 60(c)(1) "A motion under Rule 60(b) must be made within a reasonable time - and for reasons (1), (2), and (3) no more then a year after entry of the judgement or order or date of the proceeding."

Furthermore the Fed. Rule App. P. 60(d) states; "This rule does not limit a courts power to;

(1) entertain an independant action to relieve a party of judgement, order or proceeding;

...

(3) Set aside a judgement for fraud on the court."

So that in accordance with Edwards v Velvac, Inc. (1956 DC wis) 19 FRD 504; Perrin v. Alluminum Co. of America (1952 CA9 was) 197 F. 2d 254 "If timely appeal has not been taken from final judgement, order or proceeding, only exceptional circumstances will justify relief under U.S.C.S. Rules of Civil Proceedure, Rule 60(b)(6), and plaintiff's appeal from order dismissing his action would be dismissed because filed one day late."

Statement of Case:

The Petitioners case is on the surface a statutory challenge to the Fourth Circuit Appeal's Court decision to dimiss the Petitioners suit under 42 U.S.C. 1983 due to the time the appeal was received by the District Court.

on the grounds of Rule 60(b)(1)(3) &(6), (C)(1) & Rule 60(d)(3). The initial lawsuit case no: 5:17-cv-01330 was filed in 2017; February 21st 2017 & the case dismissed in ~~circuit~~ dc district court dismissed the case October 1st 2018 (document 36). On March 5, 2018, the Defendant moved to dismiss the plaintiff's complaint. After responding to Defendant's motion to dismiss, the Petitioner filed a motion for summary judgement (document 20) March 15, 2018, along with a response to the motion to dismiss (document 18) & Memorandum in Support of Response to Motion to Dismiss (document 19). In a Proposed Findings and Recommendations (PF&R)(document 31) entered May 3, 2018, Magistrate Judge Aboulhosn recommended that the motion to dismiss be granted, the motion for summary judgement be denied, and the case be dismissed.

The Petitioner filed his Response to the Court's Proposed Findings and Recommendations (document 32) on May 17, 2018 and, Defendant's Response to Plaintiff's Objections (document 33) was filed on May 29, 2018. The Petitioner wrote in the Petitioner's Appeal to Memorandum Opinion And Order (document 38);

"The Plaintiff feels the court is acting to abuse it's authority to conceal criminal acts by the Defendant in this case, as well as, by the Federal Court, Federal Prosecutors Office & Federal Public Defenders Office all in violation of the Plaintiff's rights in Criminal Case 5:18-cr-00068."

On document 38, a letter from Patricia S. Connor dated November 27, 2018 (page 1) cites receiving the Petitioner's

Appeal to Memorandum Opinion And Order on November 15 2018, mailed to the United States Court of Appeals For the Fourth Circuit by mistake. The official filing date of document 38 in case number 5:17-cv-01330 is November 5th, 2018 (11/05/18). The Petitioner's Appeal to Memorandum Opinion And Order is found on pages 4 to 9 of this document 38 and, is signed on October 22 2018 with a received by stamp for the Supreme Court of Appeals of West Virginia, an incorrect state appeals court.

The Supreme Court of Appeals of West Virginia did not return the Certificate of Service signed & dated, 10/22/18 same as the Appeal to Memorandum Opinion And Order (document 38 pages 4 to 9). The Petitioner at the time was in discipinary detention is Southern Regional Jail, 1200 Airport Road, Beaver, West Virginia &, did not have his legal documents on hand to send the "Notice of Appeal" to the District Court. So he send the Appeal ~~of~~ Re: to Memorandum Opinion And Order to his mother to send it to the District Court on his behalf, this resulted in it being send to not one but two incorrect locations & an untimely delay.

This may present an arguement for Fed. Rule App. P. 60(b)(1) it does not portain to the whole scope of Petitioner's claim. As the Petitioner has accused the District Court of using criminal proceedings in case 5:18-cr-00068 to disrupt the civil suit in case 5:17-cv-01330, which were reflected in the Appeal to Memorandum Opinion And Order (document 38).

This and other statements in the Petitioner's Informal Openning Brief & Informal Reply Brief cite issues that could be listed under Fed. R. App. P. 60(b) (1), (3) & (6) and Rule 60 (d) (1) and/or (3), case no. 18-2432 before the Appeals Court of the United States Court of Appeals for the Fourth Circuit.

The Petitioner stated in Issue 1. of the Informal Brief "[District] Court has ignored previous filings of Plaintiff's Response to the Proposed Findings & Recommendations of U.S. Magistrate Judge [Aboulhosn] documents 31 & 32 in this Case. In the Standard of Review." Petitioner went on to state "As the court claims the Plaintiff failed to state facts but, all facts cited by the Plaintiff & associated state codes are found in Document 19 pages 26, 27, 35, 36, 37 & others which show the documents of record."

In Issue 2. the Petitioner argued "The [district] court has failed examine if the [Respondent] acted in "her offical judical capacity" or if actions taken in violation of [W.Va] state codes 27-6a-2 (b) & 61-5-27a were performed in such an accord or, if actions were a violation of the laws of the State of West Virginia & the United States taken under color of law. Thus ignoring the [United States Supreme Court] standard of the Pulliaman v. Allen [466 U.S. 522 (1984)] case."

In Issue 3. the Petitioner accused the District Court of ignoring the res judicata of "Cavendish v. Moffitt, 253 S.E. 2d 558 (W. Va. 1979) where the W.Va. State Supreme Court ruled that "W. Va. Code §55-2-12 must be read in pari materia with W. Va. Code §55-7-8a." The reading of the law by the court (page 14 of Document 34) does not match & formally excludes the full reading of the W. Va. Supreme Court [citing W. Va. Code §55-7-8a] ~~(page 14 of Document 34) does not match~~ RC that issues of fraud are excluded from the limitations under 55-2-12... Furthermore, the [district] court never examined the evidence put forward by the Plaintiff's motions."

At Issue 4. the Petitioner argued "The [district] court claims the [Petitioner] did not meet the pleading standard of Federal Court. The [Petitioner] produced factual material evidence as attachments to document 19, arrest warrant, search warrant, [cited] state codes, the sources of information used in the psychological evaluation. Showing a clear violation of W. Va. Codes 27-6a-2(b) & 61-5-27a, yet none of these factual & material items are cited by the [district] court or addressed in any [relevant] form."

In the Petitioner's Informal Reply Brief the Petitioner accused the Respondant's councel of "[misquoting] to deceive the court" (on page 2). The Petitioner citing Muth v. United States, 1 F. 3d 246, 250 (4th Cir. 1993) "[T]hat issues raised for the first time on appeal generally will not be considered absent plain error or a fundamental miscarriage of justice." The Petitioner claims the District Court's bias & ~~ignorance~~ RC outright misconstruction of relevant state laws &

material evidence is the "plain error or fundamental miscarriage of justice." that would allow an independant review under Fed. Rules. App. P. 60 (b) (1), (3) & (6), Fed. R. App. P. 60 (c)(1) & Fed. R. App. P. 60 (d) (1) & (3)

The Fourth Circuit United States Appeals Court then dismissed the Appeal in an Unpublished Opinion for lack of jurisdiction, January 24, 2019.

Reasons for Granting Writ:

The Petitioner asks that the Honorable United States Supreme Court grant his Petition for Writ of Certiorari to have the Appeal's Court's dismissal of case number 18-2432 overturned &, a Appeal reviewed by the Fourth Circuit Appeals Court of the United States. Unless the Distingished United States Supreme Court wishes to rule on these matters.

I. The Court should grant Writ to determine if the district court did abuse it's lawful & Consititutional Authority...

The accusation of ignoring factual, material & statutory evidence is enough to envoke Rule 60 (b)(1) and (3), as well as Rule 60 (b)(6) were the claim that the district court abused it authority in both civil & criminal matters as held up by Edwards v. Velvac Inc. (1956 DC wis) 19 FRD 504; Perrin v. Alluminum Co. of America (1952 CA9 was) 197 F. 2d 254 "If timely appeal has not been taken from final judgement, order or proceeding, only exceptional circumstances will justify relief under U.S.C.S. Rules of

Civil Proceedure, Rule 60 (b) (6)."

The Petitioner submits the following evidence to the Honorable Court showing the district court brought criminal charges against the Petitioner for (on going case number 5:18-cr-00068); Attachment 4, & ~~and~~ the unused material evidence in same case (Attachment 5) were Respondant's actions of which the civil rights suit is brought be used to disrupt the Petitioner's action. Attachment 2 shows that the commitment was overturned in state circuit court., Attachment 3 is the Habeas Corpus (filed Pro Se) and Attachment 1 is the Appeal to Memorandum And Order filed November 5th 2018 but, shows mistaken deliveries on two seperate occasions & an accusation of abuse of Authority by the Court. Raising issues of defense pursuant with Fed. R. Civ. Pro., Rule 8 (C)(1) "In General. In responding to a pleading, a party must affirmatively state any avoidance or affirmative defense, including; (not cited in full) - duress - illegality

- failure to consider - statute of frauds

- res judicata " - statute of limitations

And... Rule 60 Relief from Judgement or Order, of the Rules of Civil Proceedure, (b) "Grounds for Relief from a Judgement, Order or Proceeding. On motion and just terms, the court may relieve a party or, it's legal representative from a final judgement, order or proceeding for the following reasons;

(1) mistake, inadventure, surprise or excusable neglect;

...

(3) fraud (whether previously called intrinsic or extrinsic), misrepresentation or, misconduct by an opposing party.

...

(6) any other reason that justifies relief."

Thus, asking the Court if the two mistaken mailings are excusable under Rules 8(C)(1) & Rule 60(b)(1) & (6)?

Attachments 2 & 3, reveal that the Petitioner's habeas corpus was overturned (it's accomplished purpose) due to a Finding of Competency from "Shapes." Thus, the Petitioner agreed to allow the Habeas Corpus to be dismissed.

On March 14 2018, criminal case number 5:18-cr-00068 was brought against the Petition for the 2014 commitment ~~it, the~~ RC (which overturned the same year) & the Petitioner's lawful right to purchase a firearm exercised in January 2018. An e-mail by one Phil Elmore (Attachment 5) & case 5:18-cr-00068 Memorandum Opinion And Order (document 88, for case no RC. 5:18-cr-00068) ~~page 6)~~ RC (Attachment 4) on page 6 states, "Magistrate Judge Aboulhosn found that, because it is undisputed that Mr. Collins was indeed involuntarily committed to a mental institution, and because he did not challenge that order or seek to have his right to possess a firearm reinstated, his as-applied challenge amounts to an inappropriate collateral attack on the state court judgement ordering his committal. Such an attack, according to the Magistrate Judge, is inappropriate for this Court to consider. Mr. Collins was represented by councel during his criminal proceedings and had ample opportunity to challenge his competency and commital issues."

Yet, issues not raised in the criminal case &, proven contradictory in Attachment 2 (Order Case No. 14-F-13-B & 14-C-900) and its address in Attachment 3 (Motion for Trial on Habeas Corpus) shows the judges ruling in the criminal case (5:18-cr-00068) was ignored by Petitioner's Federal Public Defender David Bungard &, that the complaintant in the criminal case was seeking to in part discrupt the Civil Action before the court.

Thus, addressing the "exceptional circumstances" clause of Edwards v. Veluac Inc. (1956 DC wis) 19 FRD 504; Perrin v. Alluminum Co. of America (1952 CA9 was) 197 F. 2d 254 to envoke the other Affimative Defenses under Rule 8(c)(1), Rule 60(b)(1) & (6) &, Rule 60(d)(1) & (3).

Since the nature of this law suit would expose the Respondant to questions concerning abuses of authority by state officials; officers, judges, lawyers, ect., and a connection to organized crime. Did district court judges, councel & officers (all former state officials) further abuse their authority to discrupt the Petitioner's due process right? Does this not only cover an "exceptional circumstances" grounds under Rule 60(b)(6) & Rule 60(d)(1) & (3)?

The United States Supreme Court is asked by the Petitioner to overturn the Fourth Circuit Appeals Court's dismissal on the grounds that the Fourth Circuit never determined if the district court has abused it's lawful & Constitutional authority to suppress this evidence. More so, the Appeals Court never provided an arguement for dismissing the case, so rulings that never addressed evidence &

willful disregard for this evidence was never evaluated under Rule 60 (d) Other Powers to Grant Relief. "This rule does not limit a courts power to;"

(1) entertain a independent action to relieve a party of judgement, order or proceeding;

(3) set aside a judgement for fraud on the court."

II. The case would determine if State Supreme Court rulings involving state statutes of limitations would apply to 42 U.S.C. 1983.

Because the United States Court of Appeals for the Fourth Circuit did not examine material evidence in the case, the Court of Appeals never addressed the district court's ruling or claims of bias by the Petitioner.

Citing Attachment 6: Proposed Findings And Recommendation for case no: 5:17-CV-01330 (document 31), the Affirmitive Defense allowed by Fed. R. Civ. Pro 8(C)(1) concerning W. Va. Codes 55-2-12 & 55-7-8a. The District Court failed to mention W.Va. Code 55-7-8a (Contained in Attachment 7) citing the code with a list of material evidence in a foot note beginning on page 4;

"As noted supra, [Petitioner] filed contemporaneously with his Response a Memorandum of Law in Support of same (ECF No. 19) that restates his arguements contained in the Response, but also includes numerous attachments: (1) copies of W.Va. Code 27-6A-1-3; (2) a copy of the Raleigh County Circuit Court criminal case number 14-F-13-B Agreed Order of dismissal without prejudice, entered on

September 11, 2015 by the Honorable Robert A. Burnside, Jr.; (3) a copy of the Raleigh County Circuit Court criminal case numbers 12-F-470/471, 12-B-234, 13-F-1026, 13-B-410, 13-PCR-929-K Order, entered on December 3, 2013 indicating that the circuit court denied Plaintiff's motion for reduction of bond and ordered Dr. Bobby Miller to conduct a re-evaluation of Plaitiff's psychological condition; (4) a copy of W. Va. Code §§ 61-5-27a, 55-2-12, 55-7-8a; (5) a copy of an article published by the Register-Herald Reporter on April 15, 2014 reporting Plaintiff's arrest for making terrorist threats, his court-ordered hospitalization until he retained competency to stand trial, as well as highlights of Dr. Miller's opinions provided In his evaluation of Plaintiff, and the Defendant's motion asking the circuit court have Plaintiff committed to William Sharpe Hospital pending his attainment of competency in order to participate in his legal proceedings; (6) a couple pages from the Forensic Psychiatry Evaluation report provided by Dr. Bobby Miller, dated February 25, 2014, finding Plaintiff not competent to stand trial; and (7) a copy of one page of the search warrant concerning Plaintiff's alleged terroristic threats committed in August 2013 in Raleigh County." (as continued on the foot notes of page 5, Attachment 6)

The substance of W. Va. Code § 55-7-8a, is glossed over without review on page 5 as "Further, [Petitioner] contends that he filed his claim within the two-year statute of limitations, and appears to assert that because Defendant's [(Respondant's)] conduct is criminal, that W. Va. Code §55-7-8a has no statute of limitations."

The issue of Statute of Limitations is that West Virginia has two statutes of limitation codes; W.Va. Code 55-2-12 & W. Va. Code 55-7-8a both required by West Virginia Supreme Court of Appeals to read "pari materia" in Cavendish v. Moffit. The U.S. Magistrate Judge offered many arguements on behalf of the Respondant but, never addressed factual evidence. Dismissing material facts in Attachment 7, on page 25 as "[Petitioner's] factual allegations are comprised of references to the case law and statutory authority from which he bases his claims, coupled with records produced during his during his State criminal case. None of these constitute any proffer of specific facts of Defendant's misconduct can survive a motion to dismiss or provide any meaningful basis for deciding a motion for summary judgement."

Yet, the United States Magistrate Judge never approached the substance of those case laws or statutory authorities from which the Petitioner based his arguments, except in the ascribed paragraph. The Magistrate Judge's bias that the extreme of "exceptional circumstances" to envoke Rule 60 (b)(6) is found to reinforce the argument for Rule 60 (b)(1) "mistake" in the mailing complications as discribed & the matter Rule 60 (d)(3) "fraud on the court."

Again, the Petitioner cited codes overlook or, intentionally ignored by U.S. Magistrate Judge Aboulhosn in Attachment 8: Plaintiff's Response to Courts Proposed Findings and Recommendations (doc 32, Case No: 5:17-cv-01330) further clarifying a detailing the statutory codes &, material evidence the U.S. Magistrate ignored.

United States District Judge Berger ignored this in Attachment 9: Memorandum Opinion And Order (document 34; 5:17-cv-01330). In Attachment 8 page 1 of 20 the Petitioner wrote "The Honorable Judge makes note that the Defendants' councel cites an incorrect statute claimed by the Plaintiff, distinguishing between W.Va. Code 61-5-27a & 61-5-27. This matter is discussed in violation of W.Va. Code 27-6a-2(b) a statutory requirement of law to file all evidence related to a given case for evaluation.

"While the Plaintiff does assert the violations occurred under case number 13-F-1026, the Plaintiff would like to note this 12-B-234 & 14-F-13-B case numbers are referring to the same [bound over] case. And evidence interconnected to the present Federal ~~Case~~ Crimina Criminal Case (No: 5:18-cr-00068)"

This is a refference to the evidence cited as Attachment 4, though due to pre-trial incarceration the Petitioner was greatly hampered in being able to aquire or, present evidence effectively Pro Se.

On pages 2 to 8, the Petitioner clarifies claims and reasserts legal arguments ignored by the U.S. Magistrate in Attachment 6 as only a footnote on page 4. The Petitioner also cites on page 7 to 8 of Attachment 8;

"...Yet, [U.S. Magistrate Aboulhosn] is applying the term to the [Petitioner] of "prison inmate" to (what the [Petitioner] feels is to deny the Plaintiff his right to due process) claim to screen the case & conceal the defendants criminal actions & violations of the [Petitioner's] Civil Rights of a 42 U.S.C. 1983 claim.

"The [Petitioner] does not make this claim lightly, as;

a) The Plaintiff would not be an inmate awaiting trial, with the very violations of law & rights the [Petitioner] is suing over &, the Government is basing it's case on, if the Magistrate Judge had not signed his arrest warrant.

b) The [Petitioner] feels that the "prison inmate" liable is presumptive as the [Petitioner] has not been found guilty. [Though, the Petitioner feels he has been sabotaged in his criminal case (no: 5:18-cr-00068) by the Federal Public Defenders Office; addressing Attachments 2, 3, 4 & 5.] So that any resulting verdict in said criminal case is now colored by an appearance of impropriety[, as is the civil case.]

c) The Plaintiff feels this would be best resolved with a stay of judgement unless the Magistrate Judge's intent was to use the [Petitioner's] charges to be able to prevent the [Petitioner] from arguing said facts before the court & calling witness who could verify said facts."

At pages 10 to 12 of Attachment 8, the Petitioner addresses false or misleading statements by the U.S. Magistrate to "[change] facts to suit his [(U.S. Magistrate Judge Aboulhosn's)] arguments." The Petitioner likewise, contended "it is impossible for the [Petitioner] to defend legal arguments, asserted by Magistrate Judge Aboulhosn that are not his own & correct every twist of fact & misrepresented statement issue by the U.S. Magistrate's claims." All cited from the Petitioner on page 12 of Attachment 8.

The claim of abuse of authority, misrepresention & bias on behalf of Magistrate Judge Aboulhosn begins on page 13 of Attachment 8. The Petitioner cites Cavendish v. Moffitt 163 W.Va. 38, 253 S.E. 558 which states W.Va. Code 55-2-12 must be read "pari materia" with W.Va. Code 55-7-8a. The Petitioner stated on page 14 "[W]hich the [Respondant] or Magistrate Aboulhosn have offered no counter argument."

The Petitioner then cited the substance of W.Va. Code 55-7-8a on page 14, also Attachment 8. A print out of the state code is attached to (document 19) Attachment 7. The substance of that law is never cited, only statute numbers and claims of what the Petitioner said.

Despite the Petitioner's ~~claims~~ arguments addressing the District Court's appearance of impropriety & bias, United States District Judge Irene Berger defended the U.S. Magistrates claims. Regardless, W.Va. Code 55-7-8a, subsection (a) states;

"In addition to causes of action which survive at common law, causes of action for injuries to property, real or personal or injuries to the person and not resulting in death or for deceit or fraud, also shall survive and such actions may be brought notwithstanding the death of the person entitled

to ~~relief~~ RC recover or the death of the person liable."
Citing 55-2-12, thier is no mention of fraud or deciet &, that "Citing 55-7-8a, "also shall survive; and such actions may be brought not withstanding the death of the person entitled to recover or the death of the person of ~~the~~ RC liable."

The evidence of fraud was never examined, to determine if deceit or fraud were involved. The West Virginia statute on exceptions to statute of limitations (W.Va. Codes 55-7-8a) was never applied to the code for the statute of limitations (W.Va. Code 55-2-12). In fact the district did much to actively conceal this &, the Petitioner states a belief in conditions to envoke Rule 60(b)(1) on the United States Court of Appeals for the Fourth Circuit's claim of an untimely filing &, also Rule 60(b)(6) to grant relief under Rule 60 (d)(1) & (3).

A United States Supreme Court ruling to send the matter back to the Fourth Circuit or, a direct ruling on the matter, would cement the requirement to address both West Virginia Statutes as a material part of each other. Prevent future abuses of selective interpretation of the codes &, require future courts to make a material finding of fraud or, deceit, before dismissing a case on statute of limitations &, concealing/ignoring material evidence.

Similar clauses but, less detailed were address in Informal Brief (Attachment 10) & Informal Reply Brief (Attachment 11).

III. The case would clarify basis for envoking of Rule 60(b) & Rule 60(d) to Rule 4(a):

Fed. Rule App Pro. 60(b)(3) or, more specifically Rule 60(b)(6) & Rule 60(d)(1) & (3) apply to Fed. Rule Civ. Pro 4, citing Justice Souter in Bowles v. Russell, 551 U.S. 205, 214 (2007);

"The time limit at issue here, far from defining the set of cases that may be abjudicated, is much more like a statute of limitations which provides an affirmative defense, see federal rules of criminal proceedure 8(c), and is not justification, Day v. ~~McDonogh~~ RC McDonough, 547 U.S. 198, 205, 126 S.Ct. 1675, 164 L.Ed 2d 376 (2006). Statutes of limitations may thus be waived, id., at 207-208, 126 S.Ct. 1675, 164 L.Ed. 2d 376; or exercised by rules, such as equitable tolling, that alleviate hardship and unfairness, See Irwin v. Department of Veterans Affairs, 498 U.S. 81, 95-96, 111 S.Ct. 453, 112 L.Ed. 2d. 435 (1990)."

Justice Thomas in Bowles v. Russell, 551 U.S. 205, 214 (2007);

"This Court's treatment of it's certiorari jurisdiction also demonstrates the jurisdictional distinction between court-promulgated rules and limits enacted by Congress. According to our Rules, a petition for writ of certiorari must be filed within 90-days of the entry of judgement sought to be reviewed. See this Court's Rule 13.1. That 90 day period for Civil Cases is jurisdictional. See e.g. Federal Election Commin v. NRA Political ~~Party~~ RC Victory Fund, 513 U.S. 88, 90, 115 S.Ct. 537, 130 L.Ed. 2d 439 (1994)."

The Petitioner would ask the Justices what happens in a like the Petitioner's where (1) the Petitioner is incarcerated pending trial with no access to funds, to unrestricted legal research (the Petitioner has been denied access to the Jail's law library multiple times, after being scheduled to go by jail staff) or opportunity to seek professional legal advise in such matters, (2) the district court ignores relevant & pertainent statutory codes like §55-7-8a. Actions which survive; limitations; law governing such action (Doc 19 Page 27 Attachment 7), (3) the district misconstrued statements of the Petitioner to make a case for the Respondant (see Attachments 7, 13, 6, 8, 12, 9 & 1 in that (chronological) order) while ignoring court documents of the Respondant's alledged misconduct &, (4) facing an attack on the Petitioner's lawful freedom (see attachments 2, 3 & 4), how does one petition the Government of the redress of greivence when the very courts of the Government behave as the local corrupt state courts?

Where is the Justice or, fairness of the Court to impose time limits when one does not even have access to Rules of Proceedures for the Appeals Court or, the U.S. Supreme Court? Yet with no resources the Petitioner has prepared this Petition of Writ of Certorari, in a hand scroll, with pen & paper in hopes the Petitioner may get the opportunity to speak up &, expose the evidence concealed in Attachment 4, related to the criminal case no. 5:18-cr-00068 &, exposed to this Court, in attachments 2 & 3.

Taking in both arguments by Justices Souter & Thomas, the Petitioner would ask is not active abuse & the overt appearance of misconduct by the District Court, referenced in Attachments 10 & 11, citing Issue 1." [District] Court erred in ignoring material documents filed in Court by Plaintiff" &, the following issues of ~~Doc~~ RC Attachment 10' the Informal Brief. As citing page 4 of Attachment 11; Informal Reply Brief; "The Appellee's argument under" Muth v. United States 1 F.3d 246, 250 (4th Cir. 1993) (Stating that issues raised for the first time on appeal generally will not be considered absent plain error or a fundamental miscarriage of justice)." is agreed to by the Appellant as (to cite the [Respondant]) "Claims or issues that were neither pled, argued, nor decided in district court will not be reviewed, but rather only those issues considered by the district court on the merits." Addresses issues of misconduct, miscarriage of justice &, similar such as "... Court ~~misread or ignored~~ RC did ignore material evidence of the [Respondant]", the District Court made (citing page 7) "... an erroneous arguement without review of the material facts", "[t]he District Court ignored the ~~Legal~~ RC ~~State Supreme Court ruling in Cavendish v. Moffit~~ RC Legal Standard as to whether [Respondant's] claim were barred by the statute of limitations [W.Va. Code 55-7-8a]" that the Fourth Circuit Appeals Court could have reviewed the evidence, under Rule 60 (d)(1) & (3) on grounds of Rule 60 (1), (3) and/or (6).

A ruling by the U.S. Supreme Court on this matter would clarify the different opinions of the Justices in Bowles v. Russell, 551 U.S. 205, 214 (2007) in the face such overt abuse of authority by the District Courts.

IV. The Case would publicly address abuse of authority by the district ~~ct~~ court to use criminal proceedings to interfer with & disrupt civil proceeding before the same court, unlawfully.

The Petitioner does not expect a fair trial in the case No. 5:18-cr-00068 &, fully expects to have evidence of an exclupatory nature excluded as seen in Attachments 2&3 as a product of Memorandum Opinion And Order of Attachment 4, not brought up by his new Attorney &, so has prepared a letter of complaint on the District Judge (Attachment 14).

If the U.S. Supreme Court gets this ~~had~~ hand written Petition for Writ of Certorari, then it is because the Petitioner has been proven correct. Both the complaint & the Petition will be mailed out on the Petitioner's behalf on March ~~8~~ 11, 2019 in violation of the Petitioner's Due Process rights in both cases. It does not alter the argument below.

If the U.S. Supreme Court gets this as a typed document, then the following argument still applies. There is an appearance of impropriatity in the Case No: 5:17-cv-01330, demonstrates an open & overt act, by the Federal District Court, to cover up the claims of false charges, fraudulent filings & fraudulent legal proceedings to conceal the criminal acts & associations discribed in Attachment 3, from the West Virginia State courts, prosecutors & certain police officers. A ruling on such a long term & ongoing appearance of impropriety, abuse of legal process & abuse of authority would be landmark decision on an extreme & exceptional circumstances that is long term effects would be unknown.

A case of a ~~District~~ RC U.S. District Court acting to conceal the misconduct of the State Court & Prosecutor's misconduct. No case, that the Petitioner is aware of has ever presented itself as this case does now to the U.S. Supreme Court. This case is a perfect case to address the integrity of the Federal Court system beyond District Courts; otherwise, tainted by the local corruption of local state judges who become Federal Judges.

This case represents only the latest instance of abuses with the courts inside the border of the State of West Virginia. The Petitioner can only ask, beg, the Supreme Court to hear this Petition &, pray to God you do.

V. Decision by the Fourth Circuit Appeals Court overlooked material and factual matters of District Courts bias which would have allowed Rule 60(b) & (c) to be Applied:

The Fourth Circuit Appeals Court may have overlooked material and factual matters of District Court bias; which would have allowed independant action (Rule 60 (d)) to be applied under Rule 60(b) and (C) or, the U.S. Court of Appeals for the Fourth Circuit may have decided the Petitioner's open declaration of wrongful conduct was "too big" for the Appeals Court to consider (see attachment 1). The Appeals Court made no arguement in thier PER CURTAM & dismissed the case per 28 U.S.C § 2255.

The Petitioner can only point out unpublished opinions are not binding to the Fourth Circuit, United States Court of Appeals, regardless of jurisdictional arguments or, the Appeals Courts ruling it did not examine evidence to determine if Rule 60(b) and (C) applied. It argued nothing in regards to the case. The Petitioner did not &, does not now, have access to a law library in the jail to do the required research to properly make a convincing argument. The Petitioner can only openly address this, honestly, &, point out the U.S. Court of Appeals under Rule 60 (d)(1) could have made an independent examination & under Rule 60 (b)(1), (6) and Rule 60 (d)(3) examined the case &, made a ruling, with argument concerning the evidence.

However, the fact remains that without the 90 day limit as pursuant to United States Supreme Court Rule 13.1; the only recourse known to be available to the Petitioner at this time, the Petitioner would not be able to gather the Attachments as presented here in the Petitioner's Petition for Writ of Certorari. ~~If th~~ RC

If the Honorable, United States Supreme Court wishes to refer the matter back to the United States Court of Appeals for the Fourth Circuit, that is enough. If the Honorable Court wishes to rule directly on the matter &, rule on whether that evidence in the Attachments reveals the United States District Court acted in a manner that would have allowed an exception to the filing date ~~jurisdiction~~ RC jurisdictional limit as the Appeals Court has argued.

The citing of Bowles v. Russell, 551 U.S. 205, 214 (2007) takes into account a case of jurisdiction by plain error but, this case takes into account intentional abuse of authority to disrupt the Court's own jurisdiction by the Court itself. So part of Justice Souter's argument in Bowles v. Russell applies here;

"Consistent with the traditional view of statutes of limitations, and the carefully limited concept of jurisdiction explained in Arbough, Eberhart and Kontrick, an exception to the time limit in 28 U.S.C § 2107(C) should be available when there is good justification for one, for reasons we recognised years ago. In Harris Truck Lines, Inc. v. Cherry Meat Packing Inc., 371 U.S. 215, 217, 83 S.Ct. 283, 9L. Ed. 2d 261 (1962) (per curiam), and Thompson v. INS, 375 U.S. 384, 387, 84 S.Ct. 397 11L. Ed. 2d 404 (1964) (per curiam), we found that "unique circumstances" excused failures to comply with the time limit." ~~In fact, much~~ RC

The Petitioner now asks the Honorable Justices of the United States Supreme Court, if the time limit to file is such a jurisdictional issue that no exception exists, even in the face finding bias in the District Courts rulings then is any such ~~via~~ RC relief available by Rule 60(b) (1) through (6)? If not, then there is an a Constitutional challenge to due process, equal protection & the right to petition the court for redress of greivence, suggesting District Courts can use the Criminal Proceedure to disrupt the Civil Proceedure &, do so with exception. This compromises the authority &, legitimacy of the Courts to protect the Rights of the Individual. This compromises the role of Government by extension and, leads to a breakdown in social order by authority under laws where undue duress on an individual can be used to unethically harrass or hamper the individual to protect those who abuse their, otherwise, lawful authority.

If the system of checks & balances of the U.S. Constitution are erroded to such a point, the U.S. Government becomes a Tyranny in all but name &, the Courts only exist to uphold the lie of lawful authority.

If this case points to an extreme exception to the time to file statute, supported by the various Federal Court Rules &, yet, none is available by Statute enacted by Congress. This Court and, only this Court; the United States Supreme Court, can overturn the decision & declare the Federal Statute as Unconstitutional. In accord with the systems of Checks & Balances outlined in the United States Constitution, and the interests of Justice; I ask the United States Supreme Court to do so.

Conclusion:

The Petitioner's circumstances are so unique in the extreme that they almost sound unbelievable. Unless one takes into account the factual evidence & material arguments of the Petitioner with the attachments contained in this Petition for Writ of Certioari. If the statutes are so inflexible as to allow no exception under the law, then ~~statute~~ the same statute conflicts with both Justice & Consitutionally affirmed rights.

If this Honorable Court cannot find exception to the law to protect the individual, and the individuals who make up our society as a whole, then the law must be wrong, it must oppose the nature of our Constitution & America itself. In this case I ask the Supreme Court of the United States to declare the "limits enacted by Congress" (quoting Justice Thomas in Bowles v. Russell) as an Unconstitutional limitation on jurisdiction that is both unethical, immoral &, therefore unlawful to protect abuses of authority such as in the Petitioner's situations.

I ask the Justices, what good are Rules like Rule 60 (b), (C) and (d) if Congress has robbed the courts of the jurisdiction to use them?

x Ronald Collins Date: 04/10/2019

Ronald Collins, Jr.

Pro Se