

No. 19-8538

IN THE
**Supreme Court of the
United States**

FILED
FEB 18 2020
OFFICE OF THE CLERK
SUPREME COURT, U.S.

◆
Jeffrey W. Smiles,

Petitioner

v.

Berks County, et al.

Respondent

◆
On Petition for a Writ of Certiorari
The United States Court of Appeals
For the Third Circuit

ORIGINAL

◆
Jeffrey W. Smiles
3049 Octagon Avenue
Sinking Spring, Pennsylvania [19608]
(610) 678-0254

QUESTIONS PRESENTED OF UTMOST IMPORTANCE

1. **Can a political subdivision of a state, through its employees, administratively take private property from the people they work for and give/sell that property to a third party without right of title and adequate evidence of statutory or Constitutional authority and without any form of Due Process of Law?**
2. **Can a political subdivision of a state, through its employees, administratively take property from the people they work for without “just compensation” being first offered or secured and provide unjust enrichment to others?**
3. **Did the Court of Appeals err by converting Petitioner's Appeal into a 'determination for an appeal' and then magically converting it back again into an Appeal for purposes of dismissing it?**
4. **Did the Court of Appeals err in invoking 28 U.S.C. § 1341 when this is not a tax case but a Civil Rights case and no “*plain, speedy and efficient remedy*” exists under the state law?**
5. **Can the political subdivision and lower courts ignore U.S. Supreme Court standing case precedent (*stare decisis*) *REQUIRING* Due process of law in all matters involving Life, Liberty and Property?**

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.
 All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

- 1) Jeffrey W. Smiles, Plaintiff and Petitioner;
- 2) COUNTY OF BERKS aka BERKS COUNTY,[a political subdivision of the Commonwealth of Pennsylvania] DEFENDANT;
- 3) BERKS COUNTY TAX CLAIM BUREAU, DEFENDANT;
- 4) BRENDA S. SHAW, DEFENDANT;
- 5) KATHIE E. STANISLAW, DEFENDANT;
- 6) LILLIAN B. CRAMSEY, DEFENDANT;
- 7) STACEY A. PHILE, DEFENDANT.

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Title 42 U.S.C. Section 19834

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

BROWN et al. v. Commonwealth, 453 Pa. 566 - Pa: Supreme Court 1973.....9

***581 "Article 1 of the Pennsylvania Constitution is titled the Declaration of Rights. The entire Article is concerned with establishing the principle that the people are the sovereign — not the state. There are twenty-six sections in Article 1 and every single section is concerned with the rights of the people — not the state. To isolate one sentence out of the twenty-six sections in the Declaration of Rights and say that it should be interpreted to protect the rights of the state — not the people — is ludicrous and violates all reasonable principles of construing written language in proper context. Article 1, the Declaration of Rights, opens by stating that the purpose of the Declaration is "that the general, great and essential principles of liberty and free government may be recognized and unalterably established." Nothing is said about protecting the state. The complete Declaration — its language, tone and thrust — concerns the protection of the people — not the state.**

"The Declaration speaks of the inherent and inalienable rights of people not the state. It states that all power is inherent in the people, and all free governments are founded on their authority — not that power is inherent in the state or that government is founded on the authority of a divinity or an unwritten floating concept in a judge's mind. The Declaration states that no one can be deprived of his life, liberty, or property, unless by the judgment of his peers or the law of the land — not that the state's life, liberty or property is protected. It also says that private property shall not be taken without just compensation being first made or secured

— and there is no exception for any kind of property. The people are protected from any grant of special privileges or immunities by the state. The people are given the right to the redress of grievances — no exception for tort claims or any other claim. The 582*582 Declaration ends by protecting the people in the enjoyment of all civil rights.”

Cohens vs. Virginia, 6 Wheaton 264, 399.....9

"Property is the right to dominion over the use and disposition of an interest. Protected by the equal protection clause, which is grounded in stare decisis. "

Connolly vs. Union Sewer Pipe Co., 184 U.S. 540, 563 (1902).....9

" ... the power to tax is so far limited that it cannot be used to impair or destroy rights that are given or secured by the supreme law of the land.”

Crampton vs. Zabriskie, 101 U.S., 601, 25 Ed 1070 (1964).....9

“From the nature of the powers exercised by municipal corporations, the great danger of their abuse, and the necessity of prompt action to prevent irremediable injuries, it would seem eminently proper for courts of equity to interfere upon the application of the taxpayers of a county to prevent the consummation or a wrong, when the officers of the corporations assume, in excess of their powers. to create burdens upon property-holders.”

Hale vs. Henkel, 201 U.S. 43 at 47 (1905).....9

“The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the State or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may tend to criminate him. He owes no such duty to the State, since he receives nothing therefrom, beyond the protection of his life and property. His rights are such as existed by the law of the land long antecedent to the organization of the State, and can only be taken from him by due process of law, and in accordance with the Constitution.”

Harman v. Forssenius, 380 US 528, 541 - Supreme Court 1965.....9

"It has long been established that a State may not impose a penalty upon those who exercise a right guaranteed by the Constitution.”

Houston Street Corp. vs. Commissioner, 84 F.2d 821,822 (5th Cir. 1936)...

"A person liable for a tax is a person subject to a tax and comes squarely within the definition of a taxpayer in the statute."

Jones vs. United States, 529 U.S., 146 L Ed 2d 902, 120 S. Ct. (2000).....9

" an owner-occupied residence **not used for any **commercial purpose** does not qualify as property 'used in' commerce or commerce-affecting activity ..."**

Lynch vs. Household Finance Corp., 405 US. 538 (1972).....9

"Property does not have rights. People have rights. The right to enjoy property without unlawful deprivation, no less than the right to speak, is in truth a "persons" right, whether the "property" in question be a welfare check, a home, or a savings account. In fact, a fundamental interdependence exists between the personal right to liberty and the personal property right. Neither could have meaning without the other. The rights in property are the basic civil rights has long been recognized. Property does not have rights. People have rights. The right to enjoy property without unlawful deprivation, no less than the right to speak or the right to travel, is in truth a "personal" right, whether the "property" in question be a welfare check, a home, or a savings account. In fact, a fundamental interdependence exists between the personal right to liberty and the personal right in property. Neither could have meaning without the other. That rights in property are basic civil rights has long been recognized. J. Locke, *Of Civil Government* 82-85 (1924); J. Adams, *A Defence of the Constitutions of Government of the United States of America*, in F. Coker, *Democracy, Liberty, and Property* 121-132 (1942); 1 W. Blackstone, *Commentaries* *138-140. Congress recognized these rights in 1871 when it enacted the predecessor of §§ 1983 and 1343 (3). We do no more than reaffirm the judgment of Congress today."

Macallan Co. vs. Massachusetts 279 U.S. 620 (1929).....9

"...Courts... should be acute to distinguish between an exaction, which in substance and reality, is what it pretends to be and a scheme to lay a tax upon a nontaxable subject by a deceptive use of words."

MCKESSON v DIVISION OF ALC. BEV., 496 US 18, p. 18, 110 L Ed 2d 17, p. 17 [496 US18].....9

" ... because exaction of a tax constitutes a deprivation of property, the state must provide procedural safeguards against unlawful exactions in order to satisfy the commands of the due process clause...the state must provide taxpayers with not only a fair opportunity to challenge the accuracy and legal validity of their tax obligation, but also a clear and certain remedy for any erroneous or unlawful tax collection. so as to insure that the opportunity to contest the tax is a meaningful one."

Ochoa v. Hernandez y Morales, 230 US 139 - Supreme Court 1913.....9

"Without the guaranty of "due process" the right of private property cannot be said to exist, in the sense in which it is known to our laws. The principle, known to the common law before Magna Charta, was embodied in that charter (Coke, 2 Inst. 45, 50), and has been recognized since the Revolution as among the safest foundations of our institutions. Whatever else may be uncertain about the definition of the term "due process of law," all authorities agree that it inhibits the taking of one man's property and giving it to another, contrary to settled usages and modes of procedure, and without notice or an opportunity for a hearing."

Rogin vs. Bensalem, 616 F.2d 680 (3rd Cir. 1980).....4, 9

The touchstone of substantive due process, as with equal protection, is whether the law in question is rationally related to a legitimate state goal, or whether the state action arbitrarily works to deny an individual of life, liberty, or property.

Shaffer vs. Carter, 252 U.S. 37 (1920).....9

"The state is without power to create a lien upon any property of a nonresident for income taxes except the very property from which the income proceeded; or, putting it in another way, that a lien for an income tax may not be imposed upon a nonresident's unproductive property, nor upon any particular productive property beyond the amount of the tax upon income that has proceeded from it. "

St. Louis vs. Wiggins Ferry Co. 11 Wall (US) 423, 20 L Ed 192.....9

“Where there is jurisdiction neither as to person nor property, the imposition of a tax would be ultra vires and void.”

Trustees of Lumber Inv. Ass 'no vs. Commissioner on Internal Revenue. 100 F.2d 18 (1938).....9

“The courts may not create nonstatutory taxpayers for the purpose of applying the provisions of the Revenue Acts, since the statutory definition of "taxpayer" is exclusive.”

Van Horne's Lessee vs. Dorrance (FCC Pa) 2 US. 304, 1 LEd 391.....9

“A statute shall never have an equitable construction in order to overthrow or divest an estate. Every statute, derogatory to the rights of property, or that takes away the estate of a citizen, ought to be construed strictly.”

PETITION FOR WRIT OF CERTIORARI

Petitioner, Jeffrey W. Smiles, respectfully prays that a Writ of Certiorari issue to review long-standing and long resisted but ignored self-evident U.S. Supreme Court *stare decisis* precedent and the Common Law listed herein,

OPINIONS BELOW

For cases from Federal Courts: this case ...
The opinion of the United States Court of Appeals appears at Appendix A to the Petition and,
 No re hearing was filed or required for this Petition to proceed forward, and is
 reported at; or,
 has been designated for publication but is not yet reported; or,
 unpublished.



JURISDICTION

The date on which the United States Court of Appeals for the Third Circuit decided Petitioner's case for Re-hearing was November 20, 2019, and a copy of the order appears at Appendix A. The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1), and timely filed under Rule 13, 29.2.

-Lower District and Appellate court rulings on these issues run counter to U.S. Supreme Court case precedent provided herein, creating major constitutional questions that must be resolved.

-*Due process of law* on constitutional and legal issues has been, and is being, denied Petitioner, and all similarly situated Americans are equally

damaged and misled on the substantive issues raised in this case.

-This court stated when this rises to the level of genuine "seriousness and dignity", and is vitally important to the American public, that "the court will hear them". (*Wyoming v. Oklahoma*, 502 U.S. 437 , 451 (1982),).

CONSTITUTIONAL PROVISIONS AT ISSUE

The Due Process and the Takings Clause of the United States Constitution provides that "nor shall private property [shall not] be taken for public use without just compensation," United States Constitution, Art. V, Bill of Rights. This guarantee is made applicable to the states by the Fourteenth Amendment, which provides, in relevant part, that no state shall "deprive any person of life, liberty, or property, without due process of law." Constitution for the United States, amendment. XIV, § 1.

-U.S. Constitution. 14th Amendment : "nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

I. STATEMENT OF THE CASE

This case arises from repeated attempts by a governmental political subdivision to violate the substantive civil rights of Petitioner and administratively take his private property in violation of DUE PROCESS, A TRIAL BY JURY, or EQUAL PROTECTIONS of the law (See *BROWN et al. v. Commonwealth*, 453 Pa. 566 - Pa: Supreme Court 1973 (P. vi).

It also arises because Petitioner was denied an actual Appeal in this case. His procedural due process rights were egregiously abridged by the District Court's intrusion into his Appeal by denying Petitioner's Notice of Appeal and motion to proceed in forma pauperis (Appendix E, 15a), even though he met all criteria, resulting in his Appeal being blocked and converted into a determination for an Appeal, but not an actual Appeal, with no briefing schedule or briefs submitted (Appendix C, 9a).

This is not a tax case. I repeat, this is not a tax case. This is a civil rights case where the misclassification and the misapplication of a tax is being used as a vehicle to deny Constitutional and Civil Rights and to administratively take property without due process of law.

Petitioner inherited his home of more than 45 years after the unresolved death of his father. He went on three separate payment plans with the local tax claim bureau which completely exhausted his life savings, forcing him into bankruptcy.

When Petitioner inquired about the process involved in seizing homes for unpaid ad valorem taxes he was informed by a representative of the tax claim bureau that he did not really own his home, the county did and had a right to take it from him!

As this information was contrary my religious beliefs (and what is clearly established in the founding trust documents and subsequent Constitution and its Bill of Rights), Petitioner was forced to seek out the truth of the matter through phone calls, research and public records requests.

Further, investigation of the documented evidence, the papers and documents evidences the misuse and misapplication of governmental process used beyond the scope other than which it was created and designed to accomplish in order to financially benefit the political subdivision. (See Pennsylvania Statutes Title 53 (*Municipal and Quasi Municipal Corporations*) and Pennsylvania Statutes Title 72 (*Taxation and Fiscal Affairs*).

Petitioner uncovered that the Director of the Berks County Assessment Office, as a matter of custom and policy and usage, and under color of tax statutes, has misclassified Plaintiff's private property for the apparent purpose of applying the provisions of the Pennsylvania Real Estate Tax Law Act of July 7, 1947, P.L. 1368, No. 542, Tax Reform Code of 1971, thereby committing unlawful Revenue Acts upon Plaintiffs noncommercial property.

On September 7, 2018, Petitioner filed a civil right complaint in the United States District Court for the Eastern District of Pennsylvania alleging that governmental officials and employees deprived Petitioner's rights secured by the United States in violation of (among others) the Fifth Article of the Bill of Rights, the Thirteenth and Fourteenth Amendments and due process rights

as provided by the United States Constitution and in violation of the elements of 18 USC 241, 242, 4, 471-474 (crimes “cognizable of a court of the United States”) among others, pursuant to Title 42 § 1983 (P. vi).

On February 20, 2019 the District Court granted Respondent's motion to dismiss the complaint while lacking procedural due process, without hearing or discovery (Appendix F, 16a).

On the 19th day of March Petitioner filed a notice of Appeal with the District Court along with an application to proceed In Forma Pauperis.

II. PROCEDURAL HISTORY

Petitioner has attempted *due process of law* (Blacks Law Dictionary, 6th P. 500) and filed his civil rights case on September 7, 2018 but was denied a review of evidence, hearing or discovery.

That a concerted effort was made to quash this case appears self-evident.

Petitioner had attempted due process of law and petitioning for redress of grievances previously by filing a civil rights case, In Forma Pauperis (granted), but was denied his case and the equal protections of the law.¹

¹ *The touchstone of substantive due process, as with equal protection, is whether the law in question is rationally related to a legitimate state goal, or whether the state action arbitrarily works to deny an individual of life, liberty, or property. See Rogin vs. Bensalem, 616 F.2d 680 (3rd Cir. 1980).*

On or before the 15th day of September 2018, all Respondents were served summons and complaint pursuant to Fed. R. Civ. P. Rule 4(a)(b)(c) and (1).

On the 4th day of October 2018 Defendants filed a "Motion to Dismiss" pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6). However. Respondents FAILED to move the court for a hearing pursuant to Rule 12(i) pertaining to their purported "Motion to Dismiss." The District court did not act *sua sponte* to correct this omission and no order of deferral was issued.

Federal Rules of Civil Procedures Rule 12(i)

(i) HEARING BEFORE TRIAL. If a party so moves, any defense listed in Rule 12(b)(1)-(7)-whether made in a pleading or by motion- and a motion under Rule 12(c) must be heard and decided before unless the court orders a deferral until trial.

Petitioner responded to the motion to dismiss on October 17, 2018 pointing out that the Respondents failed to state any legal deficiencies within the four corners of Petitioner's complaint.

On December 6, 2018 Petitioner filed Motion for default Judgment pursuant to Rule 55(b)(2) because Respondents failed to timely answer Plaintiff's complaint under the rules, pursuant to the Fed. R. Civ. P. Rule 12(3) based in law and supported with substantial competent evidence of their defense in accordance with Fed. R. Civ. P. Rule 8(b).

The motion was dismissed on 12/18/2018 under R. 55(a), not R. 55(b)(2).

On January 2, 2019, Petitioner filed a Motion for reconsideration pursuant to FRCP R 46 .

On January 29, 2019 the District court denied the motion.

On February 20, 2019 Petitioner's complaint was dismissed without prejudice.

On March 19, 2019 Petitioner filed a notice of Appeal with the District Court along with an application to proceed In Forma Pauperis.

On March 21, 2019 the United States Court Of Appeals for the Third Circuit docketed the Appeal as 19-1622.

On April 9, 2019 the District Court filed an Order (Appendix E, 15a) denying Petitioner's motion to proceed in forma pauperis and declaring that Petitioner was not not entitled to Appeal.

On April 25, 2019 the Court of Appeals granted Petitioner's Motion for IFP, but because of the District Court's interjections in this case, evidencing a clear bias and overreach, Petitioner's Appeal was converted into a "Determination" for an Appeal with no briefing schedule (Appendix C, 9a).

On May 14, 2019 Petitioner submitted an affidavit "in support of Appeal" as specified in the Appellate Court's Order of April 25. 2019 (Appendix D, 10a).

On October 2, 2019 The Third Circuit issued its determination, denying Petitioner's right to Appeal but at the same time referring to the determination

as an Appeal in and of itself, thereby reconverting Petitioner's determination for an Appeal back into an Appeal for purposes of dismissing it (Appendix B, 4a).

On October 16, 2019 Petitioner filed Petition for Rehearing.

On November 20, 2019 the Petition for Rehearing was denied (Appendix A, 1a,2a).

REASONS FOR GRANTING THE PETITION

1. This Court must intervene where Due Process of Law is being denied or abridged by state actors and where Constitutional violations abound.

Under Pennsylvania's Real Estate Tax Sale Law Act of Jul.7, 1947, P.L. 1368, No. 542, all administrative claims against a private homeowner are deemed conclusive and final and are barred from adjudication in any state court both before the sale and after sale has taken place. The wording is explicit and without recourse and most importantly, absent any form of Due Process of law afforded the one who owns the property (Fee-simple, alodial in nature (“in his own right, having no overlord”) and is without any “just compensation.” And this is being done without a right to Title or judicial oversight to tens of thousands of private property owners in this state, contrary to the clearly established laws of Pennsylvania and the United States of America (see Constitution of Pennsylvania Article I § 9, §10, §11 and the Fifth and Fourteenth Amendments of the United States Constitution).

Pennsylvania Statutes Title 72 Taxation and Fiscal Affairs § 7243(a)(b) and (c) (Suit for taxes) clearly sets the process for collection of taxes after the writ of scire facias has been issued pursuant to Pennsylvania Statutes Title 72 Taxation and Fiscal Affairs § 3250-6(b) (Lien of taxes).

Pennsylvania Statutes Title 72 Taxation and Fiscal Affairs, Chapter 4. Local Taxation, Sale of Lands for Taxes § 5878c (Hearing and notice) states that *"Upon presentation of any such petition by any municipality , the court shall fix a day, not more than thirty days thereafter for a hearing thereon. "*

Pennsylvania Statutes Title 72 Taxation and Fiscal Affairs § 7243(c)

(Suit for taxes), states that *"provisions of this section are in addition to any process, remedy or procedure (or the collection of taxes provided by this article or by the laws of this Commonwealth, and this section is neither limited by nor intended to limit any such process, remedy or procedure"*

Respondents, *have to commence* an action in the courts of the Commonwealth, in addition to any process, remedy or procedure for the collection of taxes provided by the laws of the Commonwealth.

Common sense and jurisprudence tells us that one must own property before one can sell it to someone else. The constitutional limitation of taxation does not allow the People's public servants (State Actors) to take or steal property from the people they work for to fund their governmental operations and certainly not without Due Process of Law.

The Constitutional provisions and process for any taking of private

property from one of the people is clearly laid out in *BROWN et al. v. Commonwealth*, 453 Pa. 566 - Pa: Supreme Court 1973 (P. v) The unalienable Right of Due Process, as explained in *BROWN et al*, has been completely subverted and abandoned in Pennsylvania leaving the People without adequate protection from political subdivisions' color of law acts and unconstitutional administrative processes for profit, unjust enrichment and continued contrivances working harm on the very people it exists to secure and protect.

2. These and other Constitutional issues were made abundantly clear to the lower courts, no matter how poorly stated or imperfectly worded, yet Petitioner was not provided by the court with the equal protections, equal access and equal treatment under law he is owed.

Petitioner was denied an actual Appeal in this case because the District Court interfered with his Motion to Proceed In Forma Pauperis (Appendix E,15a) after he met all criteria, and essentially declared that Petitioner was not entitled to an Appeal. But because the District Court had a far greater influence with the Appellate Court than Petitioner could hope to have, the Appellate Court converted his Appeal into a "Determination for an Appeal" under L.A.R. 27.4 and I.O.P. 10.6 . However, there is no authority under the L.A.R or any internal operating procedures that allow a U.S. Appellate court to reconvert a Determination for Appeal back into an Appeal for purposes of dismissing it.

On October 2, 2019 (Appendix B, 4a) the Appellate Court stated in its opinion: “As no substantial question is raised by this appeal, we will summarily affirm the District Court's judgment.”

As no Appeal took place in this case, no questions were required, only a determination for an Appeal was at issue. There was no briefing schedule or briefs submitted, only a four page Affidavit in support for the Appeal (Appendix D, 10a-14a) which did clearly indicate substantial questions were at issue.

The Court then invoked 28 U.S.C. § 1341 as grounds for dismissal, citing: “ ... if a sufficient remedy ... is available in state court.”

However, there is no remedy, sufficient or otherwise, in Pennsylvania once a home is listed for a tax sale, leaving tens of thousands of similarly situated private property owners without Due Process of Law, causing physical and emotional suffering (cruel and unusual punishment, 8th Amendment) and forcing them into untenable situations. These facts were made known in Petitioner's complaint, but ignored by the lower courts.

28 U.S.C. § 1341 does not apply when a state's courts do not provide a plain, speedy, and efficient remedy. Pennsylvania has no “ *plain, speedy and efficient remedy.*” Pennsylvania statutes, as applied by the political subdivisions, clearly show a pattern of substantive abuse of the state's statutes that not only

risers to the level of procedural unfairness (See E.D. Pa. 5-18-cv-03833, Doc no. 1) but denies and fails to protect the very Rights enshrined in the state and National Constitutions.

CONCLUDING ARGUMENTS ON FACTS OF THE ISSUES

Due process requires that the procedures by which laws or rules are applied must be equally applied, so that individuals are not subjected to the arbitrary exercise of government power, (power exercised without written authority or law, lawless and in fact criminal as specified by the Constitutions and United States Codes as noted herein), as has occurred in Petitioner's case.

The unlawful and arbitrary use of unauthorized power to deprive one of the people of their rights, property and due process are “high crimes and misdemeanors” and gives “aid and comfort to the enemy”

Due Process/equal protections of the law is one of the pillars upon which our Republic rests and which this Court has enforced time and time again. Without that unalienable right we are no better than the barbarians of the past and unless those rights are secured, recognized and enforced by our agents (Respondents) there is no need to maintain the offices that were instituted for that very purpose and as such may cause man to revert to defending by any means necessary, those sacred rights being trespassed upon and “throw off

such Government and provide new guards for their future security.”. See *BROWN et al. v. Commonwealth*, 453 Pa. 566 - Pa: Supreme Court 1973 (P. iv); *Connolly vs. Union Sewer Pipe Co.*, 184 U.S. 540, 563 (1902) (P. vii); *Hale vs. Henkel*, 201 U.S. 43 at 47 (1905) (P. vii); *Harman v. Forssenius*, 380 US 528, 541 - Supreme Court 1965, (P. vii);*Jones vs. United States*,529 U.S., 146 L Ed 2d 902, 120 S. Ct. (2000) (P. viii); *Lynch vs. Household Finance Corp.*, 405 US. 538 (1972) (P. viii); *MCKESSON v DIVISION OF ALC. BEV.*, 496 US 18, p. 18, 110 L Ed 2d 17, p. 17 [496 US18] (P. ix); *Ochoa vs. Hernandezy Morales*, 230 U.S. 139, 161 (1912) (P. ix); *Shaffer vs. Carter*, 252 U.S. 37 1920, (P. ix); *Rogin vs. Bensalem*, 616 F.2d 680 (3rd Cir. 1980) (P. ix); *St. Louis vs. Wiggins Ferry Co.* 11 Wall (US) 423,20 L Ed 192, (P. ix); *Trustees of Lumber Inv. Ass 'no vs. Commissioner on Internal Revenue.* 100 F.2d 18 (1938) (P. x); *Van Horne's Lessee vs. Dorrance (FCC Pa)* 2 US. 304, 1 LEd 391 (P. x).

Since it may be understood that due process tolerates some variances in procedure “appropriate to the nature of the case,” it is nonetheless possible to identify its core goals and requirements from the many rulings this Court has issued.

First, procedural due process rules are meant to protect persons not from the deprivation, but from the mistaken or unjustified deprivation of life, liberty, or property. Thus, the required elements of due process are those that “minimize substantively unfair or mistaken deprivations” by enabling persons to contest the basis upon which a state proposes to deprive them of protected

interests, see *MCKESSON v DIVISION OF ALC. BEV.*, 496 US 18, p. 18, 110 L Ed 2d 17, p. 17 [496 US18] (P. ix). The Fourteenth Amendment requires the provision of due process when an interest in one's "life, liberty or property" is threatened. This Court made this determination by reference to the common understanding of these terms, throughout its long history as embodied in the development of the common law.

An impartial decision maker is also an essential right in civil proceedings, being denied Petitioner. The neutrality requirement helps to guarantee that life, liberty, or property will not be taken on the basis of an erroneous or distorted conception of the facts or the law. At the same time, it preserves both the appearance and reality of fairness by ensuring that no person will be deprived of his interests in the absence of a proceeding in which he may present his case with assurance that the arbiter is not predisposed to find against him. Clearly, a showing of bias or of the appearance of bias voids any orders issued by a judge.

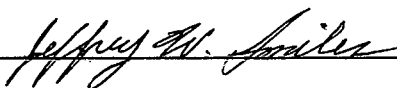
In this case, the evidence shows that the lower courts have not performed its duty to ascertain the true facts in order that it may not lend its assistance to enable what the Constitution and the law clearly forbids because the administrative taking of private property under color of law, outside of law, without due process, violates every general, great and essential principle of human dignity and liberty necessary for a free people.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted as a review is necessary to prevent injustice.

Respectfully Submitted

**Date: February 18, 2020
Corrected: Dated May 4, 2020**

By: 

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