

IN THE SUPREME COURT OF THE UNITED STATES

SHARIFF BUTLER and JEREMEY MELVIN
Petitioners

v.

LAUREL HARRY, Secretary of Department of Corrections; SHIRLY MOORE SMEAL, Executive Deputy of Department of Corrections; Melissa Roberts, Former DOC Policy Coordinator, DIANE KASHMERE, Current DOC POLICY Coordinator; TABB BICKELL, Executive Deputy Secretary for Institutional Operations; MICHAEL WENEROWICZ, Regional Deputy Secretary; DORINA VARNER, Chief Grievance Coordinator; KERI MOORE, Assistant Chief Grievance Coordinator; KEVIN KAUFFMAN, Former Superintendent at SCI-Huntingdon; LONNIE OLIVER, Former Deputy Superintendent For Centralized Services at SCI-Huntingdon; JOHN THOMAS, Former Deputy Superintendent For Centralized Services at SCI-Huntingdon; BYRON BRUMBAUGH, Former Deputy Superintendent For Facilities Management at SCI-Huntingdon; WILLIAM SCOTT WALTERS, Former Deputy Superintendent at SCI-Huntingdon; BRIAN HARRIS, Captain/Shift Commander at SCI-Huntingdon; MANDY SIPPLE, Former Major of Unit Management at SCI-Huntingdon; ANTHONY EBERLING, Security Lieutenant at SCI-Huntingdon; CONSTANCE GREEN, Former Superintendent's Assistant/Grievance Coordinator at SCI-Huntingdon; ROBERT BILGER, Former Safety Manager at SCI-Huntingdon; PAULA PRICE, Health Care Administrator at SCI-Huntingdon; MICHELLE HARKER, Nurse Supervisor at SCI-Huntingdon; ANDREA WAKEFIELD, Records Supervisor at SCI-Huntingdon; GEORGE RALSTON, Former Unit Manager at SCI-Huntingdon; ALLAN STRATTON, Unit Counselor at SCI-Huntingdon; JOHN BARR, Correctional Officer at SCI-Huntingdon; JOSHUA REED, Correctional Officer at SCI-Huntingdon; TREVOR EMIGH, Correctional Officer at SCI-Huntingdon, Respondents in their individual and in their official capacities.

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

SHARIFF BUTLER &
 JEREMEY MELVIN
 1100 Pike Street
 Huntingdon, PA 16654-1112

RECEIVED

APR 23 2025

OFFICE OF THE CLERK
 SUPREME COURT, U.S.

QUESTIONS PRESENTED

Whether governmental interference has occurred in a manner that has created extraordinary intervening circumstances of a substantial effect creating grounds not previously presented in due process, illegal seizure, right of access to the courts, retaliation and spoliation of violations?

Whether governmental interference violated Petitioners' the right to possess rooted in the bundle of rights theory of property as to advance a 14th Amendment right to due process with no precedential authority addressing said right by this Court?

Whether governmental interference violated Petitioners' the right to use rooted in the bundle of rights theory of property as to advance a 14th Amendment right to due process with no precedential authority addressing said right by this Court?

Whether governmental interference violated Petitioners' right to security rooted in the bundle of rights theory of property as to advance a 14th Amendment right to due process with no precedential authority addressing said right by this Court?

Whether governmental interference by prison officials violated Petitioners' fundamental right to access the courts resulting in actual injury by this Court's denial of a nonfrivolous claim?

Whether obstruction by prison officials violated Petitioner's 1st, 5th, and 14th Amendment rights to the U.S. Constitution by way of impairment resulting in a failure of access to the court?

Whether obstruction by prison officials served as a clear act of retaliation for Petitioners' exercise of protected conduct as to violate Petitioners' First and Fourteenth Amendment rights?

Whether Petitioners' suppressed/withheld original complaint and accompanying exhibits by prison officials created intervening circumstances of a substantial effect warranting petition for rehearing relief?

Whether obstruction by prison officials constituted a spoliation of evidence creating intervening circumstances in appellate review with This Court?

L I S T O F P A R T I E S

All parties appear in the caption of the case on the cover page with the additions of: The Department of Corrections; S. Ellenberger, Corrections Hearing Examiner at SCI-Huntingdon; Cook, Correctional Officer at SCI-Huntingdon; and Hicks, Corrections Officer 1 at SCI-Huntingdon.

R E L A T E D C A S E S

Shariff Butler, et al. v. Kevin Kauffman, et al., No.4:19-CV-02171 U.S. District Court for the Middle District of Pennsylvania, Judgment entered July 27, 2022, March 22, 2023 & May 5, 2023

Shariff Butler, et al. v. John E. Wetzel, et al., No.23-1761, U.S. Court of Appeals for the Third Circuit. Judgment Entered March 6, 2024

T A B L E O F C O N T E N T S

	<u>PAGE</u>
OPINIONS BELOW _____	1
JURISDICTION _____	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED _____	3
STATEMENT OF THE CASE _____	4-5
REASON FOR GRANTING REHEARING _____	4-14
CONCLUSION _____	15

INDEX OF APPENDICES

Appendix A: U.S. Supreme Court Order Granting Extension of Time
 Appendix B: U.S. Supreme Court Clerk Correspondence to Correct Deficiencies
 (Oct. 9, 2004)
 Appendix C: Petitioner Butler's Correspondence Letter to Court (Nov. 10, 2024)
 Appendix D: U.S. Supreme Court Clerk Correspondence to Correct Deficiencies
 (Oct. 28, 2024)
 Appendix E: Confiscation Form Issued to Petitioner Melvin
 Appendix F: Petitioner Melvin's Grievance Exhaustion
 Appendix G: Petitioner Butler's Grievance Exhaustion
 Appendix H: Request to Staff Forms to Respondent Andrea Wakefield
 Appendix I: U.S. Supreme Court February 24, 2025 Order
 Appendix J: Department of Corrections Return of Property Correspondence (March
 5, 2025)
 Appendix K: Original Complaint and Accompanying Exhibits
 Appendix L: Misconduct No. F215400 and Related Subsequent Proceedings
 Appendix M: 37 Pa. Code §93.10
 Appendix N: Grievances of Incidents #1122316 (Shoulder Injury) and #1119700
 (Property Destroyed)
 Appendix O: Grievance # 1115834 (D.O.C.'s Prior Knowledge of Petitioner's U.S.
 Supreme Ct. Filings)

T A B L E O F A U T H O R I T Y

FEDERAL CASES:

	<u>PAGE</u>
Bordenkircher v. Hayes, 434 U.S. 357 (1978).....	8,10,11
Bounds v. Smith, 430 U.S. 817 (1977).....	10
Burns v. Pa. Dep't of Corrections, 544 F.3d 279 (3d Cir. 2008).....	5,6,8,9
Chaffin v. Stynchcombe, 412 U.S. 17, 36 L.Ed. 2d 714 (1973).....	8
Christopher v. Harbury, 536 U.S. 403, 122 S.Ct. 2179 (2002).....	11
Connecticut v. Doebr, 501 U.S. 1, 111 S.Ct. 2015 (1991).....	6,8,9
Crawford-El v. Britton, 523 U.S. 574 (1998).....	12,13
Dolan v. City of Tigard, 512 U.S. 374, 114 S.Ct. 2309 (1994).....	6
Erickson v. Pardus, 551 U.S. 89, 127 S.Ct. 2197, 167 L.Ed. 2d 1081 (2007)....	7,8,10,11,14
 Estelle v. Gamble, 429 U.S. 97 (1976).....	 8,10,11,14
 Ex parte Hull, 312 U.S. 546 (1941).....	 10
Fischer v. United States, 219 L.Ed. 2d 911 (2024).....	11
Flagg Bros., Inc. v. Brooks, 436 U.S. 149, 98 S.Ct. 1729 (1978).....	6,8,9
Haines v. Kerner, 404 U.S. 519 (1972).....	8,10,11,14
 Hartman v. Moore, 547 U.S. 250 (2006).....	 12
Henneford v. Silas Mason Co., 300 U.S. 577, 57 S.Ct. 524 (1937).....	6,8,9
Johnson v. Avery, 383 U.S. 483 (1969).....	10
Lewis v. Casey, 518 U.S. 343 (1996).....	10
McNeil v. United States, 508 U.S. 106 (1993).....	8,10,11,14
 Schmid v. Milwaukee Elec. Tool Corp., 13 F.3d 76 (3d Cir. 1994).....	 14
Wilkie v. Robbins, 551 U.S. 537, 168 L.Ed 2d 389 (2007).....	14

STATUTES:

U.S.C.A. 1.....	5,10,11
U.S.C.A. 4.....	5,9
U.S.C.A. 5.....	5,6,8,10

	<u>PAGE</u>
U.S.C.A. 14.....	5,6,8,9,10, 11
37 Pa. Code §93.10.....	13
<u>OTHERS:</u>	
Abraham Bell & Gideon Parchomovsky, A Theory of Property, 90 CORNELL L. REV. 531, 543-46 (2005).....	6,8,9
Alan Ryan, PROPERTY 54 (1987).....	6,8,9
A.M. Honore, Ownership, OXFORD ESSAYS IN JURISPRUDENCE 107 (A.G. Guest, ed. 1961).....	6,7,8,9
Barron's Law Dictionary, 7th ed.	13
Black's Law Dictionary, 11th ed.	13
Denise R. Johnson, Reflections on the Bundle of Rights, 32 VT L. REV. 247 (Winter 2007).....	6,8,9
Tony Honore, MAKING LAW BIND: ESSAYS LEGAL AND PHILOSOPHICAL (1987).....	6

O P I N I O N S B E L O W

Petitioner respectfully prays that a rehearing be accepted for an intervening circumstance exception resulting in a writ of certiorari being issued to review the judgment below.

The opinion of the United States Court of Appeals is reported at *Butler v. Wetzel*, 2024 U.S. App. LEXIS 5640 (3d Cir. 2024).

The opinion of the United States District Court is reported at *Butler v. Kauffman*, 2022 U.S. Dist. LEXIS 133743 (M.D.Pa. July 27, 2022); 2023 U.S. Dist. LEXIS 48970 (M.D.Pa. Mar. 22, 2023); 2023 U.S. Dist. LEXIS 79423 (M.D.Pa. May 5, 2023).

J U R I S D I C T I O N

The date on which the United States Court of Appeals decided Petitioners cases was March 8, 2024

A timely petition for rehearing was denied by the United States Court of Appeals on May 14, 2024.

An extension of time to file the petition for a writ of certiorari was granted to and including September 26, 2024 on August 7, 2024 in Application No.24A137

This Court issued an order on February 24, 2025 denying petition for writ of certiorari

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

CONSTITUTIONAL & STATUTORY PROVISIONS INVOLVED

The First Amendment of the United States Constitution (U.S.C.A. 1) asserts: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

The Fourth Amendment of the United States Constitution (U.S.C.A. 4) asserts: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by Oath or Affirmation, or particularly describing the place to be searched, and the persons or things to be seized."

The Fifth Amendment of the United States Constitution (U.S.C.A. 5) asserts: "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

The Fourteenth Amendment of the United States Constitution (U.S.C.A. 14) asserts: "All persons born or naturalized in the United States, and subject to the jurisdiction therefore, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

37 Pa. Code §93.10 (See Appendix M, attached hereto)

REASONS FOR GRANTING REHEARING

I. Governmental Interference Has Occurred In A Manner That Has Created Extraordinary Intervening Circumstances Of A Substantial Effect Creating Grounds Not Previously Presented By Way of Violations In Due Process, Illegal Seizure, Right of Access To The Courts, Retaliation and Spoliation

Petitioners in the instant matter assert their grounds for filing for a rehearing are based on extraordinary intervening circumstances of a substantial effect creating substantial grounds not previously presented to This Court within their petition for a writ of certiorari. Said intervening circumstances of a extraordinary nature are as follows:

After Petitioners' timely filed petition for a writ of certiorari on September 26, 2024, slated by an extension of time granted by Justice Alito (See Appendix ["Appx" hereinafter] -A hereto), This Court issued a letter to correct deficiencies within Petitioners' filing, providing a 60 day extension to make said corrections. See October 9, 2024 Clerk Order as Appx-B hereto. This said correspondence letter along with Petitioners' filing were not received from This Court on "two" separate occasions due to alleged deficiencies in the mailing process causing said letter & documents to be returned to sender (This Courthouse). Petitioner Butler informed This Court of the discrepancy. See November 10, 2024 Letter Correspondence as Appx-C hereto. Petitioners received a second court correspondence letter in accompaniment with the return of Petitioners' initial filings. See October 28, 2024 Letter Correspondence Order as Appx-D hereto. However, on November 25, 2024, after a series of events, Petitioner Melvin received an instructed cell search order by an unidentified rank of authority in which Melvin was told by Corrections Officer 1 Cook ("CO1 Cook" hereinafter) that he was "instructed to take any legal documents with Petitioner Butler's name on it" leading to said officer (accompanied by another unidentified officer) confiscating 275 legal documents from Petitioner Melvin that belonged to "both" Petitioners in relevance to this case. See Confiscation Form No. C738925 as Appx-E hereto. Amongst said confiscated documents were Petitioners' original complaint and accompanying grievance filings made as exhibits in support of their complaint. Said actions obstructed Petitioners' ability to include their original complaint and exhibits as an "accompanied appendix filing" to be submitted with their corrected 12/11/2024 submittal of the petition for a writ of certiorari as those documents were considered essential evidence needed to support Petitioners' claims in this matter. Petitioner Butler was never informed of said confiscation on Nov. 25, 2024 nor given a confiscation form for what was his legal property seized from Melvin. Both Petitioners immediately filed grievances pertaining to said confiscation being unwarranted as ranking prison officials were made aware of Petitioners' prior joinder filings in this same matter(to which the confiscated documents in question were filed as exhibited evidence "filed and used" by both Petitioners) since the initial filing in the year 2019 up to the filing

of their petition for a writ of certiorari with This Court. See Petitioner Melvin's Grievance No. 1121215 and Responses as Appx-F & Petitioner Butler's Grievance No. 1121828 and Responses as Appx-G hereto. Petitioner Butler later came in contact with CO1 Cook during a legal mail pick-up callout to which said CO1 told Butler that Corrections Superintendent Assistant ("CSA" hereinafter) Andrea Wakefield gave the instruction to confiscate Butler's legal documents from Melvin. Andrea Wakefield is one of the Respondents cited in this case matter. Petitioner Butler wrote to Respondent Wakefield inquiring what authority and rules permitted the confiscation of Butler's legal documentations that were actively being used in a joinder civil case (used in all the lower courts as well) needed for filings with This Court. Respondent Wakefield gave a response dated January 3, 2025 stating: "Mr. Butler- I was not involved in your incident." Petitioner Melvin received a similar response in his 12/23/24 inquiry request. See Request Forms To Respondent Wakefield From Petitioners as Appx-H hereto.

While Petitioners continued for months to exhaust remedies to rightfully reclaim their legal document property, a subsequent decisions was given by This Court on February 24, 2025 in which an Order was issued asserting "petition for a writ of certiorari is denied." See February 24, 2025 U.S. Supreme Court Order As Appx-I hereto. It is after this decision that Petitioners were suddenly summoned to the Security Office on March 5, 2025 just 9 days after This Court's decision (and "one" day after Petitioner Butler's 3/4/2025 receipt of said 2/24/2025 Court Order) for an "allegedly" recorded meeting in which the legal documents confiscated on November 25, 2024 were now being returned to Petitioner Melvin (with no explanation for their initial seizure) with Petitioner Butler being made present to apparently "witness" said legal documents of his being returned to Melvin and both Petitioners were issued return of confiscated property correspondence to sign. See Return of Property Correspondence as Appx-J hereto.

This documented display of events, supra, in blatant obstruction and sabotage of Petitioners' right to present key essential evidence to support their claims with This Court presents intervening circumstances of a substantial effect that has caused Petitioners to lose their civil appeal suit that has created constitutional violations under U.S. Constitutional Amendments 1st, 4th, 5th, and 14th in a manner that effectuates grounds not previously presented to This Court. Based on said facts, Petitioners Present the following claims.

**A. Governmental Interference Violated Petitioners' "The Right To Possess"
Rooted In The Bundle of Rights Theory of Property As To Advance
A 14th Amendment Right To Due Process With
No Precedential Authority Addressing Said Right By This Court**

In Third Circuit case Burns v. Pa. Dep't of Corrections, 544 F.3d 279, 296 n. 2(3d Cir. 2008), it

expressed; "the [United States] Supreme Court has held that the impairment of property rights, even absent the permanent physical deprivation of property, is often sufficient to trigger due process protections." Citing Connecticut v. Doehr, 501 U.S. 1, 12, 111 S.Ct. 2015, 115 L.Ed. 2d 1(1991) ("[T]he State correctly points out that these effects do not amount to a complete, physical, or permanent deprivation of real property... But the Court has never held that only such extreme deprivations trigger due process concern. To the contrary, our cases show that even the temporary or partial impairments to property rights that attachments, liens, and similar encumbrances entail are sufficient to merit due process protections.")

Burns, 544 F.3d at 287, provides further insight supporting the right to possess as being part of a due process analysis rooted in "the 'bundle of rights' theory of property, which both the Supreme Court and the Third Circuit have embraced in numerous cases over the last seventy years." See e.g. Dolan v. City of Tigard, 512 U.S. 374, 393, 114 S.Ct. 2309 (1994); Flagg Bros., Inc. v. Brooks, 436 U.S. 149, 160 n. 10, 98 S. Ct. 1729 (1978)(referencing a bundle of rights as part of due process analysis); Henneford v. Silas Mason Co., 300 U.S. 577, 582, 57 S.Ct. 524(1937). By there being no precedential authority addressing the "right to possess," specifically by name, Petitioners turn to the source of legal philosopher A.M. (Tony) Honore, a professor at the University of Oxford who has identified a right to possess as one of the eleven "standard incidents" of property ownership, stating in pertinent part:

"Ownership comprises the right to possess, the right to use, the right to manage, the right to the income of the thing, the right to capital, the right to security, the rights or incidents of transmissibility and absence of term, the prohibition of harmful use, liability to execution, and the incident of residuarity: this makes eleven leading incidents." A.M. Honore, *Ownership*, in *OXFORD ESSAYS IN JURISPRUDENCE* 107 (A.G. Guest, ed. 1961) reprinted in Tony Honore, *MAKING LAW BIND: ESSAYS LEGAL AND PHILOSOPHICAL* (1987).

See legal commentator references accepting Honore's list of the incidents of property ownership as basis for modern ownership. See, e.g., Alan Ryan, *PROPERTY* 54 (1987) ("[a] legal order recognizes ownership in the full modern sense when [Honore's 11 incidents] are assigned to a single person."); Abraham Bell & Gideon Parchomovsky, *A Theory of Property*, 90 *CORNELL L. REV.* 531, 543-46 (2005) ("A.M. Honore played a decisive role in advancing the bundle of rights metaphor by cataloging a generally accepted list of the 'incidents' of property or ownership."); Denise R. Johnson, *reflections on the Bundle of Rights*, 32 *VT. L. REV.* 247 (Winter 2007). See Burns, 544 F.3d at 287-88.

Based on the aforementioned facts in governmental interference and obstruction by the Respondents and those anonymously working in concert with the Respondents (the Department of Corrections), the specific documents confiscated of which was primary evidence to be used in the Petitioners' petition a for writ of certiorari filed with This Court consisted of Petitioner's Original Complaint ("Or. Cmplt." hereinafter) with verification page and a plethora of the original complaint's accompanied exhibits. See Petitioners' Original Complaint (Filed as District Court Docket ["D.C.Dkt."] #1) & Or. Cmplt. Exhibits (Filed as D.C.Dkt. 10) all as Appendix-K hereto. Among the Or.Cmplt. exhibits, the confiscated documents were as follows:

Exhibit ("Ex.") -A (Request To Staff Response) referenced at paragraph ("prgh.") 35 of Or.Cmplt.; Ex-F (Request To Staff Response) at prgh.44; Ex-H (Request To Staff Response) at prgh. 47-48; Ex-I (Request To Staff Response) at prgh. 49; Ex-J (Request To Staff) prgh. 51-52; Ex-R (Request To Staff Response) at prgh. 78; Ex-S (Request To Staff) at prgh. 78-79; Ex-T(R.T.S.) at prgh. 80-81; Ex-Z (R.T.S.) at prgh. 127-128; Ex-II (Grievance("Gr.")) #698749 [Double Cell & Overcrowding Violation]) at prgh. 171-178; Ex-KK (Grv. #710611 [No Ventilation, Understaffing & Fire Safety Haz ards Violation]) at prgh. 185-190; Ex-MM (Grv. #790024 [Kitchen Fire & Fire Safety Hazards Violation]) at prgh. 197-203; Ex-PP (Grv. #796674 [Yard Recreation Shortage]) at prgh. 216-221; Ex-RR (Grv.#803973 [Retaliation Forgery Claim (against Respondent Andrea Wakefield)]) at prgh. 230-235; Ex-SS (Grv. #806196 [Retaliation Cell Search Claim]) at prgh. 236-241.

Petitioners argue that the confiscation of the legal documents aforementioned prevented them from providing key evidence to support their claims filed with This Court leading to the denial of Petitioners' petition for a writ of certiorari and said confiscation constitutes expropriation thereby impairing Petitioners' right to possess in legal documents used as exhibited evidence in a single joinder filed complaint with This Court (and all lower courts) applying to both Petitioners. The subsequent return of said legal documents substantiates the impermissible and unlawfulness of said confiscation (see Appendix-J). Honore, *Ownership*, *supra*, at 171, instructs; "An important aspect of the owner's position is that he should be able to look forward to remaining owner indefinitely if he so chooses...Legally, this is in effect an immunity from expropriation, based on rules which provide that, apart from bankruptcy and execution for debt, the transmission of ownership is consensual." As pro se prisoner litigants, Petitioners reference Erickson v. Pardus, 551 U.S. 89, 94, 127 S.Ct. 2197, 167 L.Ed. 2d 1081 (2007)(per

curiam), stating; "'Pleadings must be construed as to do justice' Fed.R.Civ.P. 8(e). This already liberal standard is 'even more pronounced' where a plaintiff files the complaint without the assistance of counsel.'" See McNeil v. United States, 508 U.S. 106, 113(1993); Haines v. Kemer, 404 U.S. 519, 520(1972) and Estelle v. Gamble, 429 U.S. 97, 106 (1976).

Bordenkircher v. Hayes, 434 U.S. 357, 363 (1978), asserted; "[F]or an agent of the state to pursue a course of action whose objective is to penalize a person's reliance on his legal rights is 'patently unconstitutional.'" (quoting Chaffin v. Stynchcombe, 412 U.S. 17, 32-33, n. 20, 36 L.Ed. 2d 714, 93 S.Ct. 1977 (1973)).

B. Governmental Interference Violated Petitioners'
"The Right To Use" Rooted In The Bundle Of Rights
Theory of Property As To Advance A 14th Amendment
Right To Due Process With No Precedential Authority
Addressing Said Right By This Court.

For purposes in brevity, Petitioners here assert the fact in legal document confiscation presented in Section I & A, supra. And again, based on said facts, Petitioners argue that the confiscation of the legal documents aforementioned prevented them from providing key evidence to support their claims filed with This Court leading to the denial of Petitioners' petition for a writ of certiorari as said original complaint and its accompanying exhibits provided the necessary clarity and accuracy for This Court to understand the points required for consideration and said confiscation thereby constitutes expropriation to which impaired Petitioners' "right to use" said legal documents as supporting exhibited evidence within their petition for a writ of certiorari filed with This Court. The Respondents, the Department of Corrections and/or Respondents assigned counsel are also held to be culpable in this matter as Petitioners'"Remand Initial Review Response" asserts that the return of the confiscated documents were "granted by an office of higher authority." See Petitioners' Remanded Initial Review Response as Appx-F & G. The return of said legal documents substantiates the impermissibility and unlawfulness of said confiscation (see Appendix-J). Petitioners' claim here of deprivation and impairment of property rights triggering sufficient due process protections are supported by Burns, 544 F.3d at 296 n. 2, citing Doehr, 501 U.S. at 12. Petitioners' assertion of the right to use being part of a due process analysis rooted in "the bundle of rights" theory of property is supported by Flagg Bros., Inc., 436 U.S. at 160 n.10 and Henneford, 300 U.S. at 582. And with no precedential authority specifically addressing "the right to use" as a named claim, Petitioners' source of guidance in presenting said claim is reference from A.M. Honore, Ownership, in OXFORD ESSAYS IN JURISPRUDENCE 107 (A.G. Guest, ed. 1961). See also Alan Ryan, supra; Abraham Bell, supra; and Denise R. Johnson, supra. Pleadings given liberal standard to pro se litigants are held in Erickson, supra; McNeil, supra; Haines, supra; and Estelle, supra. Penalizing persons for reliance of legal rights being unconstitutional is held in Bordenkircher, supra. For the same reasons in

fact and lawful authority cited, *supra*, Petitioners also assert they had "the right to manage" their legal documents in question in order to properly exhaust their civil action appeal with This Court and by the same facts and premised argument, *supra*, Petitioners assert "the right to manage" claim as well.

**C. Governmental Interference Violated Petitioners'
"The Right To Security" Rooted In The Bundle Of Rights
Theory of Property As To Advance A 14th Amendment
Right To Due Process With No Precedential Authority
Addressing Said Right By This Court**

For purposes in Brevity, Petitioners here assert the facts in legal document confiscation presented in Section I & A, *supra*. Again, based on said facts, Petitioners argue that the confiscation of legal documents aforementioned prevented them from providing key evidence to support their claims filed with This Court leading to the denial of Petitioners' petition for a writ of certiorari as said original complaint and its accompanying exhibits provided the necessary clarity and accuracy for This Court to understand the points required for consideration and said confiscation thereby constitutes expropriation and impaired Petitioners' right to security in their possession of legal documents as said documents were also intended to be used as exhibited evidenced within Petitioners' petition for a writ of certiorari filed with This Court. In accordance with Department of Corrections ("DOC") Policy DC-ADM 815, all items cited on an DC-153M Inmate Personal Property Inventory Sheet is considered "personal property" to which includes legal mail and paperwork. See DC-153M Inmate Personal Property Inventory Sheet (as Appendix-G at initial grievance, Ex-D thereto). The return of said legal documents substantiates the impermissibility, arbitrary and unlawfulness of said confiscation (see Appx-J). These actions also violated the Petitioners' Fourth Amendment Right to be secure in their "papers" and effects against unreasonable "seizures." The Petitioners further contend that the confiscation of said legal documents placed the Department of Corrections, CO1 Cook and CSA Wakefield in a position analogous to that of a Judgment Creditor and clearly deprived Petitioners of a protected interest for purposes of their procedural ^{& substantive} due process claim by forceful confiscation of said legal documents. Petitioners' claim here of deprivation and impairment of property rights in this regard triggering sufficient due process protections are supported by Burns, 544 F.3d at 296 n.2, citing Doehr, 501 U.S. at 12. Petitioners' assertion of "the right to security" being part of a due process analysis rooted in "the bundle of rights" theory of property is supported by Flagg Bros., Inc., 436 U.S. at 160 n. 10 and Henneford, 300 U.S. at 582. And with no precedential authority by This Court specifically addressing "the right to security" as a claim here, Petitioners' source of guidance for said claim is referenced from A.M. Honore, *Ownership*, *supra*, at 107. See also Alan Ryan, *supra*; Abraham Bell, *supra*; and Denise R. Johnson, *supra*. Petitioners assert Honore's sixth incident of property ownership, the right to security, which Lawrence Becker has defined as "immunity from expropriation;" See Lawrence C. Becker, *PROPERTY RIGHTS: PHILOSOPHIC FOUNDATIONS* 19 (1977). Also see Honore, *Ownership*, *supra* at 171. Pleadings given liberal standard to pro se litigants are, again, held in

Erickson, *supra*; McNeil, *supra*; Haines, *supra*; and Estelle, *supra*. And, again, penalizing persons for reliance of legal rights being unconstitutional is held in Bordenkircher, *supra*.

D. Governmental Interference By Prison Officials Violated Petitioners' Fundamental Right To Access The Courts Resulting In Actual Injury By This Court's Denial of A Nonfrivolous Claim

For purposes in brevity, Petitioners assert that the facts in legal documents confiscation presented in Section I & A, *supra*, supports their asserted right to access the courts violation claim expressed hereinafter. This Court has established that prisoners have a fundamental right to access the courts in the precedential decisions held in Ex parte Hull, 312 U.S. 546 (1941), Johnson v. Avery, 383 U.S. 483 (1969), Bounds v. Smith, 430 U.S. 817 (1977). Based on said legal authority, it was unlawful for the prison officials at SCI-Huntingdon, including CO1 Cook (and the unidentified accompanying officer with CO1 Cook) to confiscate Petitioners' legal documents as said documents were needed as exhibit evidence to accompany Petitioners' petition for a writ of certiorari. There are policy directives within DOC Policy DG-ADM 815 and DG-153M Inmate Personal Property Inventory Sheet that renders legal documents personal property (see Appx-G, at Ex-C & D in Initial Grievance #1121828). The subsequent return of Petitioners' legal documents confirm Petitioners' right to possess said documents as personal property (see Appx-J). However, said return of legal documents did not come without the legal consequence of an "actual injury" by way of the unavailability of the legal documents confiscated, which included Petitioners' original complaint and a multitude of accompanying exhibits, preventing said documents from being presented within Petitioners' petition for a writ of certiorari filed with This Court. The absence of said legal documents caused This Court to deny Petitioners' filing in this regard to which the said legal documents were then returned to Petitioners 9 days "after" This Court's February 24, 2025 petition for writ of certiorari denial (see March 5, 2025, Return of Property Correspondence as Appx-J). These factors also meet the requirement of an "actual injury" held in Lewis v. Casey, 518 U.S. 343, 414 n.3 (1996), which asserts; "Depriving someone of an arguable (though not yet established) claim inflicts actual injury because it deprives him of something of value--arguable claims are settled, bought and sold." Petitioners, therefore, meet the requirement of a right to access the courts violation under First Amendment Rights to "petition the government for a redress of grievances" and Fifth and Fourteenth Amendment rights to "due process of law" and said claim should be granted under these intervening circumstances obstructing Petitioners' ability to receive a proper appellate review.

E. Obstruction By Prison Officials Violated Petitioners' 1st, 5th, And 14th Amendment Rights To The U.S. Constitution By Way Of Impairment Resulting In A Failure of Access To The Courts

For the purposes in brevity, Petitioners assert that the facts that support this claim are expressed in Section I & A, *supra*, and are to be referenced for said claims herein. Based on the facts presented, the confiscation of Petitioners' legal documents needed to file a proper and lucid petition for a writ of certiorari has proven to be a "targeted" obstruction by prison officials and other unidentified parties of a higher authority that has created an impairment to Petitioners' right to present a non-frivolous claim and, in turn, has lost their civil action appeal. *Christopher v. Hartbury*, 536 U.S. 403, 415, 122 S.Ct. 2179, 153 L.Ed. 2d 413(2002), asserts; "The relevant injury in an access to the courts claim is the loss of or impairment to a non-frivolous claim regarding Plaintiff's criminal conviction or the conditions of his confinement, not mental or emotional injuries." See also, *Fischer v. United States*, 219 L.Ed. 2d 911, 932 (2024), stating in pertinent part; "That official proceeding plainly used certain records, documents or objects-including, among others, those relating to the electoral votes themselves. And it might well be that Fischer's conduct, as alleged here, involved the impairment (or the attempted impairment) of the availability or integrity of things used during the January 6 proceeding...." In the instant case of the Petitioners it becomes obvious that the intent of the confiscation of legal documents was to "impair" Petitioners until This Court rendered a decision in the manner that it did. And the proof needed in this matter lies within prison officials sudden temporal proximity in returning Petitioners' legal documents (needed and to be used as evidence provided to This Court) "after" This Court's writ of certiorari denial and the issuance of a return of property confirmation form by prison officials (See Appx-J). Pleadings given liberal standards to pro se litigants are held in *Erickson*, *supra*; *McNeil*, *supra*; *Haines*, *supra*; and *Estelle*, *supra*. Again, penalizing persons for reliance of legal rights being unconstitutional is held in *Bordenkircher*, *supra*. Based on said legal authority, Petitioners' impairment claim should be granted under these intervening circumstances obstructing Petitioners' ability to receive a proper appellate review.

**F. Obstruction By Prison Officials Served
As A Clear Act Of Retaliation For Petitioners'
Exercise Of Protected Conduct As To Violate
Petitioners' First And Fourteenth Amendment Rights**

For purposes in brevity, Petitioners reference all facts presented in Sections I & A, *supra*, in relevant support of the claim presented here in the form of retaliation. Petitioners have a U.S. Constitutional right to the First Amendment to "petition the government for a redress of grievances." Petitioners also have a 14th Amendment right to the U.S. Constitution to due process of law and equal protection. Based on these rights, Petitioners' protected conduct was infringed upon when prison officials, as to include CO1 Cook and CSA Wakefield, knowingly confiscated 275 legal documents from Petitioner Melvin on November 25, 2024 (See Appx-E), upon an order by either CSA Wakefield or "a higher authority," as many of the documents confiscated had both Petitioners' name disclosed on them as to include Petitioners only copy of the original complaint that was initially filed with the district court in this case matter. Said confiscation prevented Petitioners from including this documented evidence and countless exhibits that supported this said evidence within their December 10, 2024 resubmitted petition

for a writ of certiorari (upon Court Order to Correct deficiencies) or any other future filings needed by This Court(or any other court). After Petitioners filed grievances about said confiscation, the officer responsible for conducting the instructed confiscation (001 Cook) told Petitioners on different occasions that CSA Andrea Wakefield was the delegating party who gave the instruction. Andrea Wakefield is one of the current Respondents in this case matter (review cover page caption). However, upon Petitioners inquiring Wakefield's involvement, she immediately denied 001 Cook's attestations (See Appx-H). This chain of events concluded with the confiscated legal documents being returned to the Petitioners on March 5, 2025, just 9 days after This Court denied Petitioners' petition for a writ of certiorari disclosing the arbitrary, impermissibility and unlawfulness of the confiscation in the first instance. See February 24, 2025 U.S. Supreme Court Order as Appx-I and Return of Property Form as Appx-J hereto. Knowledge of Petitioners' initial filing with This Court on September 26, 2024, prior to the November 25, 2024 confiscation of legal documents, is attributed to all respondents for it is self-evident and procedure for the assigned counsel representing all Respondents to inform them that an ongoing appeal was filed against them on said date (9/26/2024). Petitioner Butler had further made the Security Office's Legal Mail Supervisor aware of dilatory legal mail distributions interfering with his filings with the U.S. Supreme Court. See Grievance No. 1115834 as Appx-O. With that prior knowledge coupled with 001 Cook's assertions of who instructed his cell search confiscation, the Department of Corrections are also culpable within this retaliation claim and a "causal connection" exist by a direct nexus and circumstantial evidence. concerning all named persons, *supra*.

Said facts substantiates a lawful claim of retaliation held in Crawford-El v. Britton, 123 U.S. 574, at 574(1998), confirming a holding of; "it was held that the prisoner was not required to adduce clear and convincing evidence of improper motive in order to defeat the officer's summary judgment motion with respect to the First Amendment retaliation claim, as (i) it would not be unfair to hold the officer accountable for actions that she knew, or should have known, violated the prisoner's constitutional rights." See, *Id.*, at 591. Hartman v. Moore, 547 U.S. 250, 259-60 (2006), holds;" To prevail on such a claim, a plaintiff must establish a 'causal connection' between the government defendant's 'retaliatory animus' and the plaintiff's subsequent injury...the motive must cause the injury. Specifically, it must be a 'but-for' cause, meaning that the adverse action against the plaintiff would not have been taken absent the retaliatory motive." The confiscated legal documents in question were not deemed "contraband" nor a "threat to security" by the said cell search officers(see Appx-E) nor are there any "procedures" (DOC Policy or otherwise) that prohibits the possession of "legal mail, paperwork or other legal documents"(See Appx-G at Grievance No. 1121828; Ex-C & D thereto). Said actions were not reasonably related to any "legitimate governmental interest." Based on said legal authority, Petitioners' retaliation claim should be granted under these intervening circumstances obstructing Petitioners' ability to receive a proper appellate review.

Campaign of Harassment Claim:

In fashioning a campaign of harassment claim under retaliation one must show that the actions taken were not in accordance with established procedures thereby showing retaliatory animus. Hartman, *supra*. The Petitioner Melvin received such a campaign of harassment leading up to the unlawful confiscation of legal document on November 25, 2024. Said claim outset on November 3, 2024, upon Petitioner ("Melvin") returning from the law library. Melvin walked down the 4th tier to return to his cell at 4023. In doing so, Melvin must walk by Petitioner Butler's cell at 4006 in which Melvin then gave Butler a brief update of information needed pertaining to their joint filing in this case matter. An officer CO1 Hicks, tending the tier below Melvin, stated "wrap it up" and Melvin asked for "just one more second." CO1 Hicks stated "make it quick." Melvin then finished his comment, thanked the officer, and returned to his cell. About 15-20 later Melvin was called to the front desk and sent to the Restricted Housing Unit ("RHU") due to CO1 Hicks fabricating misconduct charges. These charges were: #33. Using Inappropriate Language Toward Staff; #35. Refusing To Obey An Order, and; #43. Presence In An Unauthorized Area. See Conduct No. F215400 as Appx-L hereto. Melvin properly filed a witness form calling for Petitioner Butler to attest to the veracity of the incident on 11/3/2024 to support his innocence plea along with a request to review the CCTV footage of the incident. The Hearing Examiner ("HEX") concluded that the video footage doesn't provide audio to hear CO1 Hick's and Melvin's verbal exchange and he was refusing to call Petitioner Butler as a witness writing "not needed to determine guilt or innocence" on Witness Form and in his verdict at Appx-L. HEX stated that Melvin pled guilty to charge #43 when, in fact, he had not and found Melvin guilty of all charges by decision of alleged "preponderance of evidence." Said hearing was not "recorded" as required per DOC Policy DG-ADM 801, Section 3(Misconduct Hearing), subsection A(1) ("The facility is responsible for providing security for the Hearing Room and to provide the Recorder") (Bold emphasis added) The HEX's conduct in rendering his decision was contrary to established law governing inmate disciplinary hearings. In Pennsylvania, state statute 37 Pa. Code §93.10 Inmate Discipline, governs all D.O.C. disciplinary hearings. 37 Pa. Code §93.10 (b)(3) & (5), mandates the following:

"(b) Written procedures which conform to established principles of law for inmate discipline including the following will be maintained by the Department and disseminated to the inmate population:

(3) Opportunity for the inmate to tell his story and to present relevant evidence.

(5) Written statement of the decision and reasoning of the hearing body, based upon the preponderance of evidence."

See 37 Pa. Code §93.10 as Appx-M hereto.

The above referenced evidence (see Appx-L & M) supports Petitioner Melvin's contention that these established procedures were not followed. Crawford-El, 523 U.S. at 591, established; "[I]t is not unfair to hold liable the official who knows or should know he is acting outside the law." §93.10(b)(2), states in pertinent part; "Hearing before an impartial hearing examiner..." (at Appx-M). From the initial civil suit filing in the year 2019 to the present there isn't an official at SCI-Huntingdon who hasn't become

familiar with the Petitioners' actions in this regard. That familiarity comes with discontent and animus. While in the RHU, Melvin received further harassment and punitive corporeal punishment by being handcuffed in a manner that caused his shoulder to "pop out of place" during a cell search in the RHU (where his legal & cosmetic property was confiscated/destroyed)(See Grievances filed for said incidents at Appx-N hereto). Melvin was released from the RHU on November 14, 2024. By Melvin's RHU placement, he lost his honor-based single cell, his Activities Department employment, his actively attended Educational Programs, and a "15 plus year" class 1 misconduct "free" record all based on fabrications and animus. This campaign of harassment was then concluded with the instructed confiscation of legal documents, asserted, *supra*, on November 25, 2024. See campaign of harassment case Wilkie v. Robbins, 551 U.S. 537, 168 L.Ed. 2d 389, 392(2007). Petitioner Melvin's campaign of harassment in conjunction with Petitioners' retaliation claim should be eligible for grant to Petitioners under the intervening circumstances aforementioned obstructing Petitioners' ability to receive a proper appellate review.

**G. Petitioners' Suppressed/Withheld Original Complaint &
Accompanying Exhibits By Prison Officials Create
Intervening Circumstances Of A Substantial Effect
Warranting Petition For Rehearing Relief**

Based on the facts and claims asserted in Section I thru G, *supra*, Petitioners present the withheld, by unlawful confiscation, original complaint & accompanying exhibits (Again, please review Appendix-K) all initially filed with the U.S. District Court due to the omission created by prison official's obstruction in the manner described above creating intervening circumstances of a substantial effect. With that, by being caught in the crosshairs of such a bias, please allow the Petitioners' petition for writ of certiorari to be considered and granted for review to determine the merit of the claims presented based on said omission in suppressed/withheld key evidence. As pro se prisoner litigants, the Petitioners humbly request that any and all applicable law be applied to allow such a filing under the extraordinary intervening circumstances presented herein, *supra*, and warranting a petition for a rehearing review and relief due to its timely objection. For liberal treatment in this matter see Erickson, *supra*; McNeil, *supra*; Haines, *supra*; Estelle, *supra*.

Additionally, Petitioners assert a spoliation of evidence claim due to the confiscation, and thereby impeding withholding, of key essential documents in Petitioners' original complaint & accompanying exhibits(See Appx-K) expressed, *supra*, needed to support Petitioners' appellate right to a properly filed petition for a writ of certiorari. See Third Circuit spoliation case Schmid v. Milwaukee Elec. Tool Corp., 13 F.3d 76, 79(3d Cir. 1994), to which that court applied three(3) key considerations to determine sanctions for spoliation of evidence being appropriate.

C O N C L U S I O N

For the aforementioned reasons expressed in actual intervening circumstances of a substantial effect and grounds not previously raised, the Petitioners humbly request in the interest of justice that this petition for a rehearing is granted after allowing a response to be given to this petition for rehearing by the opposing parties involved in this matter. A granted review reading shall clarify any misunderstandings by way of the liberty in allowing amended/supplemental filings to be accepted in order to debunk any and all decisions rendered at the lower court levels (by U.S. District Court & U.S. Court of Appeals (3d Cir.) decisions). By the discretion of This Said Court, Petitioners simply request a chance at an honest, fair and impartial review of all or any said claims as to make right arbitrary actions that should be deemed wrong. Petitioners shall accept any form of relief that This Court deems appropriate with prayers that the relief is fair and impartial.

**Additional material
from this filing is
available in the
Clerk's Office.**