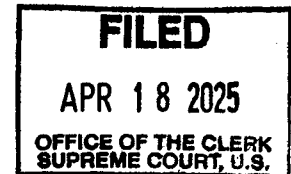


ORIGINAL

No. \_\_\_\_\_

24-7119



IN THE  
SUPREME COURT OF THE UNITED STATES

\_\_\_\_\_  
MARK ANTHONY HILL – PETITIONER

vs.

JENNIFER PELL, et al. – RESPONDENTS

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

Mark A. Hill A766-443  
Pickaway Correctional Institution  
11781 State Route 762  
Orient, OH 43146

## QUESTION(S) PRESENTED

1. Whether the factual allegations Petitioner presented in the original and amended complaints demonstrates that the Defendants' conduct of concealing material eyewitness evidence is a hindrance or impediment to establishing a complete defense in the State court criminal trial proceeding under the second clause of 42 U.S.C. § 1985(2).

2. Whether assuming all the factual allegations in the original and amended complaints are true allows the Court to draw the reasonably plausible inferences that at least two of the Defendants had a meeting of the minds and parallel behavior of discriminatory animus that, *in any manner*, obstructed the guaranteed right to justice in the State court in order to warrant a discovery period to be conducted.

3. Whether the fundamental rights guarantee that automatically attaches to citizens accused of a crime makes them a member of a protected class for purposes of the 'class-based animus' requirement of the second clause of 42 U.S.C. § 1985(2).

4. Whether heightened "probability" standards for showing 'facial plausibility' and 'racial motivation' were prejudicially applied at the pleading stage of this civil conspiracy action.

## LIST OF PARTIES

SCOTT CRAWFORD

BRITTANY N. HAMM

RITA HAMM

ANITA HAMM

ERIC B. KOVACHS

## RELATED CASES

*Mark A. Hill v. Jennifer Pell, et al.*, No. 2:21-cv-04142, U.S. District Court for the Southern District Court of Ohio, Eastern Division – Complaint filed August 11, 2021.

*Mark A. Hill v. Jennifer Pell, et al.*, No. 2:21-cv-04142, U.S. District Court for the Southern District Court of Ohio, Eastern Division – Order and Report and Recommendations filed December 28, 2023.

*Mark A. Hill v. Jennifer Pell, et al.*, No. 2:21-cv-04142, U.S. District Court for the Southern District Court of Ohio, Eastern Division – Opinion and Order and Judgment, filed March 11, 2024.

*Mark A. Hill v. Jennifer Pell, et al.*, No. 2:21-cv-04142, U.S. District Court for the Southern District Court of Ohio, Eastern Division – Order Granting Leave to Appeal in Forma Pauperis, filed April 17, 2024.

*Mark Anthony Hill v. Jennifer Pell; Scott Crawford; Brittany N. Hamm; Rita Hamm; Anita Hamm; Eric B. Kovachs*, No. 24-3268, United States Court of Appeals for the Sixth Circuit - Order and Judgment, filed January 21, 2025.

*Mark A. Hill v. Jennifer Pell, et al.*, No. 2:21-cv-04142, U.S. District Court for the Southern District Court of Ohio, Eastern Division – Plaintiff Mark A. Hill's Rule 60(b)(2) & (b)(3) Motion for Relief from Judgment filed March 10, 2025.

## TABLE OF CONTENTS

OPINIONS BELOW .....	1
JURISDICTION .....	1
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED .....	2
STATEMENT OF THE CASE .....	3
REASONS FOR GRANTING THE WRIT .....	13
CONCLUSION .....	16
CERTIFICATE OF COMPLIANCE .....	18
28 U.S.C. § 1746 DECLARATION .....	19

## INDEX OF APPENDICES

APPENDIX A – Order of the United States Court of Appeals for the Sixth Circuit

APPENDIX B – Opinion and Order of the United States District Court, Southern District of Ohio

APPENDIX C – Order Granting Leave to Appeal in Forma Pauperis, United States District Court,  
Southern District of Ohio

APPENDIX D – Order and Report and Recommendations of the United States District Court,  
Southern District of Ohio

# TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
<u>Griffin v. Breckenridge</u> , 403 U.S. 88, 96-98 (1971)	6, 15
<u>Bell Atlantic Corp. v. Twombly</u> , 550 U.S. 544 (2007)	8
<u>Ashcroft v. Iqbal</u> , 556 U.S. 662 (2009).	8
<u>Alexander v. Rosen</u> , 804 F.3d 1203, 1207 (6th Cir. 2015)	14, 15
<u>Crane v. Kentucky</u> , 476 U.S. 683, 690 (1986)	14
<u>California v. Trombetta</u> , 467 U.S. 479, 485 (1984)	14
<u>Kennedy v. Mackie</u> , 639 Fed. Appx. 285, 290 (6th Cir. 2016)	14
<u>Kush v. Rutledge</u> , 460 U.S. 719, 724-25 (1983)	15
<u>Ferreiras v. City of Covington</u> , 2024 U.S. Dist. LEXIS 217786, *11 (N.D. Kentucky Dec. 3, 2024)	15
<u>Ohio ex rel. Moore v. Brahma Inv. Grp., Inc.</u> , 723 Fed. Appx. 284, 288 (6th Cir. 2018)	15
<u>Bartell v. Lohiser</u> , 215 F.3d 550, 559 (6th Cir. 2000)	15
<u>Dallas v. Holmes</u> , 137 Fed. Appx. 746, 753 (6th Cir. 2005)	15
<u>Browder v. Tipton</u> , 630 F.2d 1149, 1150 (6th Cir. 1980)	15
<u>Webb v. United States</u> , 789 F.3d 647, 671 (6th Cir. 2015)	16
<u>Weberg v. Franks</u> , 229 F.3d 514, 528 (6th Cir. 2000)	16
<u>Robinson v. Waterford</u> , 1989 U.S. App. LEXIS 12347, *20-21 (6th Cir.)	16
<u>Hampton v. Hanrahan</u> , 600 F.2d 600, 620 (7th Cir. 1979)	16
<u>Jackim v. Sam's East, Inc.</u> , 378 Fed. Appx. 556, 563 (6th Cir. 2010)	16
<u>Sixth Amendment to the United States Constitution</u>	2, 14
<u>Due Process Clause of the Fourteenth Amendment</u>	14
<u>42 U.S.C. § 1985(2)</u>	2, 14

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issues to review the judgments below.

**OPINIONS BELOW**

The United States Court of Appeals for the Sixth Circuit's Order affirming the United States District Court for the Southern District Court of Ohio's judgment appears at Appendix A and is not recommended for publication. The United States District Court for the Southern District of Ohio's Opinion and Order dismissing claims against all Defendants appears at Appendix B and is published at 2024 U.S. Dist. LEXIS 42236. The United States District Court for the Southern District of Ohio's Order granting leave to appeal in forma pauperis appears at Appendix C and is published at 2024 U.S. Dist. LEXIS 70036.

**JURISDICTION**

The United States Court of Appeals for the Sixth Circuit issued its Order and Judgment on January 21, 2025. A copy of that decision appears at Appendix A. This Court has jurisdiction under 28 U.S.C. § 1254(1).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

*The Sixth Amendment to the United States Constitution*, in relevant parts, provides: "In all criminal prosecutions, the accused shall enjoy the right to . . . be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence."

42 U.S.C. § 1985(2), in pertinent part, provides a right to damages "if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws."

## STATEMENT OF THE CASE

On August 25, 2018, Petitioner Mark A. Hill drove to pick up his then girlfriend, Brittany N. Hamm, from her grandmother's home and was involved in a physical confrontation with Martie Jacobs at the home of Rita Hamm where he resided as a rent-free boarder.

On the night of October 9, 2018, a Columbus, Ohio SWAT Team entered Petitioner's home and arrested him. During the early morning hours of October 10, 2018, Petitioner voluntarily interviewed with detectives and was informed that he was accused of hitting Jacobs twice in the face with a two-and-a-half-pound sledgehammer. On October 18, 2018, a Franklin County, Ohio Grand Jury indicted Petitioner, charging him with committing felonious assault and aggravated burglary from the August 25, 2018 altercation.

A public defender was appointed as defense counsel for Petitioner. Defense counsel utilized an investigator employ with the public defender's office, who interviewed Jacobs, Rita

and Brittany about the events occurring on August 25, 2018. Rita, Jacobs and Brittany were also interviewed by detectives from the Columbus Police Department.

On or about April 16, 2019, Petitioner was bonded out of jail. He and Brittany began residing at an extended stay hotel and during their two-month stay Brittany's mother, Anita Hamm, brought Brittany's minor children to visit on three occasions. During this period, Rita also appeared at the hotel on at least four occasions.

From the end of June to the first week of August 2019, Mark and Brittany were together in the presence of Rita or Anita on many occasions, including Rita's car and Anita's home and car.

A jury trial was conducted August 19 – 21, 2019. The prosecution presented a theory that Jacobs had spent the day getting drunk with the neighbors across the street and was involved in, at least, one physical confrontation with Brittany N. Hamm around 6 or 7 in the evening on August 25, 2018. Then Brittany called Petitioner – her boyfriend at the time – after 10 pm the same night and told him that Jacobs had sexually propositioned her and then punched her in the face when she turned down his offer. The prosecution presented that Jacobs had gone to bed and went to sleep around 7 pm and that Petitioner entered his bedroom around 11 pm and hit Jacobs twice in the face with a two-and-a-half-pound sledgehammer.

Rita appeared as a witness for the prosecution and provided that she believed Jacobs sexually propositioned and punched Brittany in the eye on August 25, 2018. She also provided that Jacobs attacked Britany a second time and that she had to intervene to get him off of her granddaughter. Rita also testified that Petitioner did not have a sledgehammer, or any type of weapon.

Petitioner testified that Jacobs' sexual and physical assaults on Brittany occurred after 10:30 pm, while he was already on the freeway to pick Brittany up, and provided evidence that he



received three Facebook Messenger video calls from her during his drive. Petitioner also presented that he arrived within 15 minutes of Brittany being punched, entered Jacobs' room to confront him about his abuse, and that Jacobs was awake and swung a punch at Petitioner's face to which Petitioner responded with four quick punches to Jacobs' face.

Although Brittany was subpoenaed to appear and testify on Petitioner's behalf, she intentionally failed to arrive on time.

After deliberations, the jury acquitted Petitioner of aggravated burglary and found him guilty of felonious assault. The trial court found Petitioner guilty of the repeat violent offender specification attached to the felonious assault offense. On September 19, 2019, Petitioner was sentenced to twelve years in prison.

In March 2021, while reviewing the trial transcripts to prepare a jurisdictional memorandum to the Ohio Supreme Court in his direct appeal, Petitioner discovered that Rita had testified that after being propositioned and physically assaulted by Jacobs in front of her grandmother's garage on August 25, 2018, Brittany went across the street and sat with the neighbors crying.

During a digitally recorded call from prison, Petitioner asked Brittany who the neighbors were that Rita had mentioned during her testimony. Brittany provided that Jennifer (a neighbor across the street) witnessed Jacobs sexually proposition and then assault her in front of the garage from her front porch, and asked her if she was alright.

During proceeding digitally recorded calls, Brittany provided Jennifer's address but didn't know her last name. After receiving the address, Petitioner realized that on December 17, 2018, his investigator had randomly spoken to, and obtained a brief statement from, Scott Crawford who lives at the same address. Brittany informed Petitioner that Jennifer and Scott are a couple and

great friends with Jacobs. And that Jacobs had spent the day drinking with them on August 25, 2018.

Petitioner solicited a former friend to research and obtain the last name for Jennifer and found the last name of Pell for her.

During another digitally recorded call, Petitioner realized that Brittany was at Rita's house and requested that she ask Rita about Jennifer witnessing Jacobs assaults on her. Rita responded that Jennifer had spoken to the investigators and told them she didn't want to be involved.

During additional calls, Brittany provided that Jennifer and Scott were sitting outside on their front porch when Petitioner arrived at Rita's, parked his truck with the driver's side facing their house, and witnessed him exit the truck and walk up the driveway to Britany without a sledgehammer, or any other type of weapon, in his hand. That she approached Jennifer in June 2021 to ask about August 25, 2018 and was told it was over and done with and she wouldn't talk about it.

Petitioner realized that neither of the interview statement summaries of Brittany and Rita's interviews with the detectives, nor their interview statements to the defense investigator, contained a single mention about the neighbors across the street, nor the names Jennifer and Scott. He also realized that between April and August 2019, Brittany, Rita and Anita had numerous opportunities to reveal that Jennifer and Scott were witnesses to the events occurring on August 25, 2018 that could have favorably assisted his defense. And that, due to their concealment, he is now suffering substantial losses.

As a result of these revelations, and others regarding Anita and Eric B. Kovachs threatening Brittany to cease trying to help reverse the conviction, on August 11, 2021 Petitioner filed a Complaint pursuant to the second clause of 42 U.S.C. § 1985(2), both clauses of 42 U.S.C. §

1985(3) and 42 U.S.C. § 1986, alleging that Jennifer, Scott, Brittany and Rita conspired to deny him of his constitutional right to a fair criminal trial proceeding when they concealed the existence of eyewitness testimony from him and his defense investigator and counsel, in violation of the *Fifth, Sixth and Fourteenth Amendments to the United States Constitution*.

Petitioner also named Anita and Eric (Brittany's boyfriend at the time) as Defendants due to their intentional interference with Brittany's meager attempts to assist in reversing the conviction, as well as Anita's knowledge of Jacobs' false allegations and the existence of Jennifer and Scott as witnesses but refused to stop the conspiracy of concealment.

Petitioner's complaint also alleged that the Defendants were all White and aware that Jacobs routinely characterized Black men as 'niggers' and failed to reveal the favorable evidence to him and his defense because he is a Black man.

On October 18, 2021, the district court issued an Order to Show Cause, directing Petitioner to show cause why the complaint should not be dismissed for lack of subject-matter jurisdiction based upon the failure to name a state actor and allege any government action sufficient to state a federal claim for relief.

On November 12, 2021, Petitioner filed a response to the show cause order and demonstrated that claims presented under the second clause of § 1985(2), § 1985(3) and § 1986 provides a remedy for conspiracies involving private actors and need not allege that the deprivation occurred at the hands of the state, as established by the United States Supreme Court in *Griffin v. Breckenridge*, 403 U.S. 88, 96-98 (1971).

On December 7, 2021, the district court agreed with Petitioner's response to the order to show cause and issued an Order directing the United States Marshal to perfect service upon Defendants by certified mail.

On June 10, 2022, Summons Returned Executed as to Defendants, Anita Hamm on May 17, 2022, Brittany N. Hamm on May 18, 2022, Rita Hamm on May 18, 2022 and Eric B. Kovachs on May 20, 2022 was filed.

On May 26, 2022, Rita Hamm filed an Answer to the Complaint but failed to serve it upon Petitioner. On June 7, 2022, Anita Hamm filed an Answer/Letter to the Complaint but failed to serve it upon Petitioner.

On July 15, 2022, Petitioner filed an Application to the Clerk for Entry of Default against Rita and Anita for failing to serve him with copies of their answers, as well as Brittany and Eric for failing to appeal and file an answer or responsive document. On the same day, Petitioner filed a Request for Personal/Residence Service of the Complaint and Summons by the United States Marshal upon Jennifer Pell and Scott Crawford.

On February 2, 2023, the district court granted Petitioner's motion for personal/residence service on Jennifer and Scott. On February 14, 2023, the Clerk filed an Entry of Default against Brittany and Eric for failing to plead or otherwise defend in this cause as required by law.

On June 6, 2023, Petitioner filed a Motion for Expedited Rule 55(b)(2) Default Judgment and Rule 54(c) Demand for Judgment Against Brittany and Eric, accompanied with an Affidavit of Judgment.

On June 12, 2023, through assistance of retained counsel, Jennifer's Answer to the Complaint was untimely filed beyond the June 6, 2023 due date set forth in the Summons served upon Jennifer and Scott on May 16, 2023, without obtaining leave from the Court.

On July 31, 2023, Jennifer Pell's Motion to Dismiss was filed arguing that the complaint fails to state a claim upon which relief can be granted and that the allegations didn't specify what Jennifer did or did not do that resulted in a violation of Petitioner's rights.

On August 29, 2023, Petitioner filed a Response to Defendant Jennifer Pell's Motion to Dismiss, specifically outlining each of Jennifer's misconducts alleged in the complaint that placed her on notice and provided the opportunity for controverted factual allegations to be presented in conflict with factual accounts provided by two of the named Defendants in this action.

On September 11, 2023, Petitioner filed an Application to the Clerk for Entry of Default Against Defendant Scott Crawford, accompanied with an Affidavit in support of the Application, for his failure to appear and otherwise respond to the complaint.

On September 12, 2023, Jennifer filed a Reply in Support of her Motion to Dismiss. On September 13, 2023, the Clerk's Entry of Default as to Defendant Scott Crawford was filed.

On December 5, 2023, Petitioner filed a Motion for Expedited Rule 55(b)(2) Default Judgment and Rule 54(c) Demand for Judgment Against Defendant Scott Crawford and an Affidavit in Support of Motion for Default Judgment was filed.

On December 28, 2023, an Order and Report and Recommendations (R & R) was filed: 1. Denying Petitioner's two motions to strike; 2. Directing the Clerk to send copies of Rita and Anita's Answers to Petitioner; 3. Recommending Jennifer's Motion to Dismiss to be Granted and the claims against her be Dismissed Without Prejudice; 4. Recommending that the claims against Scott, Brittany, Anita, Rita and Eric be sua sponte Dismissed Without Prejudice; and 5. Denying as Moot the Motion to substitute and both Motions for Default Judgment.

The R & R concluded that striking Rita and Anita's answers might "result in a loss of the opportunity to . . . defend a lawsuit on the merits." In review of Jennifer's Motion to Dismiss, the R & R determined that Petitioner's allegations "do not meet," and "fall far short of", the "pleading elements" for a § 1985 civil conspiracy claim initiated in *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007) and *Ashcroft v. Iqbal*, 556 U.S. 662 (2009).

The R & R also determined that the alleged facts did not “show that any Defendant committed an overt act in furtherance of the alleged conspiracy.” Also has not alleged facts that demonstrate the existence of a “single plan” or “conspiratorial objective” between Defendants to injure Petitioner by violating his civil rights. And that his allegations that Defendants were biased against him because he is a Black man “are insufficient to plausibly allege a single plan or conspiratorial objective.” And concluded that, accordingly, Petitioner failed to state a Section 1985 civil conspiracy claim against Jennifer upon which relief can be granted and those claims should be Dismissed.

The R & R gave Petitioner “the opportunity to rectify the deficiencies identified above in an amended pleading,” recommending that Jennifer’s Motion to Dismiss be granted without prejudice.

The R & R further determined that the deficiencies in Petitioner’s claims against Jennifer are equally present against the remaining Defendants, and for the same reasons above, recommended that the claims against Britany, Rita, Anita, Scott and Eric also be dismissed without prejudice. (APPENDIX D).

On January 22, 2024, Petitioner was granted leave instanter to file his Rule 72(b) Objections to the R & R. On February 15, 2024, Petitioner filed a Motion for Leave to File an Amended and Supplemental Complaint presenting additional detailed factual allegations to rectify the pleading deficiencies identified in the R & R.

On March 11, 2024, an Opinion and Order was filed granting Jennifer’s motion to dismiss for failure to state a claim; granting Anita’s motion to dismiss; overruling Petitioner’s objections; denying the motion for leave to file an amended and supplemental complaint; denying as moot the

motion to substitute Anita for Rita due to death and motions for default judgment; and dismissed Petitioner's claims against all Defendants.

The district court's Opinion acknowledged that petitioner is correct that the overt-act requirement can be satisfied by an omission, by limiting (in this matter) the concealment(s) as applicable only in furtherance of the conspiracy.

The opinion, ultimately agreeing with the R & R's determination that Petitioner did not sufficiently allege any of the three key elements of a civil conspiracy under § 1985, concluded that Petitioner's claims fail for a more fundamental reason "because there was no underlying constitutional violation that injured [him]."

The opinion goes on to address the Amended and Supplemental Complaint, acknowledging that it contains additional details regarding the facts underlying the state-court proceedings, it still fails to establish a constitutional violation given the circumstances presented and does not support the claims of a shared conspiratorial intent. (APPENDIX B).

On March 28, 2024, Petitioner timely filed a Motion for Leave to Appeal In Forma Pauperis and Notice of Appeal in the district court. The motion for leave raised the following appeal issues:

1. The district court erred to Plaintiff's prejudice when limiting the Sixth Amendment fair trial violation claim to Compulsory Process and concluding it as a non-constitutional guarantee contrary to clearly established Supreme Court rulings.
2. The district court prejudicially held Plaintiff to an unreasonably heightened "single plan" or "conspiratorial objective" pleading requirement, holding his factual allegations to a "probability requirement."
3. The district court's misinterpretation and/or reinterpretation of the second clause of § 1985(2) denied Plaintiff adequate and equal opportunity for redress.

4. The district court erred when determining Plaintiff failed to show a plausible inference of unconstitutional discrimination.

On April 17, 2024, an Order was filed granting Petitioner leave to appeal in forma pauperis. The order began by addressing the third issue – the Court’s interpretation of 42 U.S.C. § 1985(2) – and concluded that Petitioner’s request for § 1985(2) relief does not clearly depend on whether he properly alleged a constitutional violation, and in light of this, Petitioner’s contention that the Court misinterpreted the standard for conspiracy claims under § 1985(2) has an “arguable basis in law and fact.” And that a different interpretation of this standard “may impact the second and fourth issue on appeal, as well, so those should also be reevaluated.”

The order also addresses Petitioner’s protesting of the Court’s limiting his Sixth Amendment allegations to compulsory process only, concentrating its analysis only on former Defendant’s failure to either comply with a subpoena or choose to testify in Petitioner’s defense, concluding that the Court is unable to identify anything else in the Complaint that could be the basis for a Sixth Amendment challenge. (APPENDIX C).

On appeal, Petitioner argued that he is entitled to reversal of the district court’s conclusion that his Complaint failed to state a claim that private citizens violated his fundamental constitutional rights to a fair trial by conspiring, *in any manner*, to hinder and/or impede his ability to present a defense in a state court criminal proceeding for the following reasons.

*First*, the district court’s evaluation of the factual allegations in the conspiracy claim misinterpreted, or failed to properly consider, the legislative intent and plain meaning of the language in the second clause of § 1985(2). The district court’s conclusion that “there was not underlying constitutional violation that injured [Petitioner]” ignored the protected liberty interest for which fundamental constitutional guarantees attach to a person accused by the State of



committing a crime. The second clause of § 1985(2) appears to have been enacted to protect a private citizen from interference by other private citizens in such a situation.

*Second*, the district court required Petitioner to meet a heightened and unattainable facial plausibility pleading standard in order to demonstrate that “two or more persons” shared a “single plan” or “conspiratorial objective” required for a civil conspiracy claim. The factual allegations pleaded in the Complaint outlines how Defendants Jennifer Pell and Scott Crawford were interviewed by investigators for the State – due to Defendant Rita Hamm’s interview with the same investigators leading them to Jennifer and Scott.

A reasonable inference can be drawn that the State’s investigators related Jacobs’ allegations against Petitioner during which Jennifer and Scott, a couple for over 16 years, agreed with each other to allow the known false allegations to be pursued. The district court applied a “probability requirement” to these factual allegations creating an insurmountable hurdle which could not be attained.

*Third*, the district court’s decision pertaining to the required pleading of the ‘some racial or perhaps otherwise class-based, invidiously discriminatory animus’ element of a civil conspiracy claim, not only applied a heightened standard for factually alleging a racial motivation, but completely overlooks that a criminal defendant has a protected liberty interest creating a membership in a constitutionally protected class under § 1985(2) and (3).

The court of appeals’ Order, filed on January 21, 2025, affirmed the district court’s judgment, finding that the court did not err in dismissing Petitioner’s §§ 1985 and 1986 claims. The court of appeals reasoned that even assuming Petitioner’s conspiracy claims could proceed against private actors without a showing of state action, he failed to state a claim because his allegations of a conspiracy and racial or class-based animus were wholly conclusory.

The Order also determined that Petitioner, relying solely on the fact that the defendants knew each other or were related to each other, "alleged no facts from which one could reasonably infer that the defendants withheld evidence or witnesses from investigators in accordance with a single plan to deprive him of his right to equal protection of the laws" and failed to sufficiently show that they acted or failed to act pursuant to a conspiratorial objective.

The court of appeals also concluded that Petitioner's allegation that the defendants were motivated by race was conclusory and that, even when considering his assertions that Brittany, Anita and Rita knew that Jacobs was racist and that Jennifer, Scott and Jacobs shared in these beliefs, along with the fact that Petitioner is Black and the defendants are White, do not support an inference that "the defendants were motivated by 'invidious discrimination.'"

The court of appeals further concluded that Petitioner asserts for the first time that, as a criminal defendant, he "has a protected liberty interest creating membership in a constitutionally protected class under § 1985(2) and (3), despite the argument being in direct response to the district court's 'unconstitutional discrimination' ruling, an issue for which leave to appeal was granted, and, thus, did not consider it. (APPENDIX A).

## **REASONS FOR GRANTING THE PETITION**

### **I. THE UNITED STATES COURT OF APPEALS HAS DECIDED AN IMPORTANT QUESTION OF FEDERAL LAW THAT HAS NOT BEEN, BUT SHOULD BE, SETTLED BY THIS COURT.**

There is a critical precedential void in jurisprudence relating to proceedings under the second clause of 42 U.S.C. § 1985(2), and the legislative intent of the phrase "in any manner" appearing in the statutory definition.

In relevant part, 42 U.S.C. § 1985(2) provides a right to damages “if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, *in any manner*, the due course of justice in any State or Territory, with intent to deny any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws.” (emphasis added).

42 U.S.C. § 1985(2) prohibits “two or more persons [from] conspir[ing]” to interfere with state judicial proceedings “with intent to deny any citizen the equal protections of the laws.” *Alexander v. Rosen*, 804 F.3d 1203, 1207 (6<sup>th</sup> Cir. 2015).

In this matter, Petitioner presents that Defendants had a “meeting of the minds” to ‘impede, hinder and obstruct’ the due course of justice in his State court criminal case by concealing from him and his defense the material and exculpatory evidence of witnesses to the events directly related to the criminal allegations against him existed, which deprived him of his *Sixth Amendment* right to a complete defense.

“Whether rooted directly in the *Due Process Clause of the Fourteenth Amendment* or in the *Compulsory Process or Confrontation Clauses of the Sixth Amendment*, the Constitution guarantees criminal defendants ‘a meaningful opportunity to present a complete defense.’” *Crane v. Kentucky*, 476 U.S. 683, 690 (1986) (quoting *California v. Trombetta*, 467 U.S. 479, 485 (1984) (internal citations omitted)). See *Kennedy v. Mackie*, 639 Fed. Appx. 285, 290 (6<sup>th</sup> Cir. 2016).

Would not intentionally depriving a person accused of a crime the Constitutional right to establish a complete defense, especially when those persons know that the allegations are false, meet the “in any manner” language in the second clause of § 1985(2) in order to show the “impede, hinder and obstruct” the course of justice in a State court elements of the statute?

## II. THE COURTS BELOW REQUIRED A 'PROBABILITY' PLEADING STANDARD IN ORDER TO SHOW FACIAL PLAUSIBILITY AND CLASS-BASED ANIMUS IN AN ACTION RAISED IN THE SECOND CLAUSE OF 42 U.S.C. § 1985(2).

In this matter, the district court and court of appeals held Petitioner to a heightened standard at the pleading stage for meeting the elements of a civil conspiracy claim raised under the second clause of § 1985(2).

To state a claim under § 1985(2), a plaintiff must allege that two or more persons conspired to (1) intimidate a party, witness, or juror in federal judicial proceedings or (2) obstruct justice in state courts. See *Kush v. Rutledge*, 460 U.S. 719, 724-25 (1983). With respect to a conspiracy to obstruct justice in state courts, a plaintiff must also allege that there was “some racial, or perhaps otherwise class-based, invidiously discriminatory animus behind the conspirator’s action.” *Alexander*, 804 F.3d at 1207-08 (6<sup>th</sup> Cir. 2015) (quoting *Griffin*, 403 U.S. at 102).

The Sixth Circuit has established that ‘racial animus is not required to state a claim under the statute, just some variant of class-based animus is necessary.’ *Ferreiras v. City of Covington*, 2024 U.S. Dist. LEXIS 217786, \*11 (N.D. Kentucky Dec. 3, 2024). See *Ohio ex rel. Moore v. Brahma Inv. Grp., Inc.*, 723 Fed. Appx. 284, 288 (6<sup>th</sup> Cir. 2018) (citing *Bartell v. Lohiser*, 215 F.3d 550, 559 (6<sup>th</sup> Cir. 2000)).

A plaintiff in a § 1985 claim must allege membership in a protected class and discrimination based on such membership. See *Dallas v. Holmes*, 137 Fed. Appx. 746, 753 (6<sup>th</sup> Cir. 2005). “[C]lasses who receive heightened protection under the *Equal Protection Clause*.” *Bartell*, 215 F.3d at 560 (quoting *Browder v. Tipton*, 630 F.2d 1149, 1150 (6<sup>th</sup> Cir. 1980)).

“Rarely in a conspiracy case will there be direct evidence of an express agreement among all the conspirators to conspire, . . . [and] circumstantial evidence may provide adequate proof of

conspiracy.” *Webb v. United States*, 789 F.3d 647, 671 (6<sup>th</sup> Cir. 2015) (quoting *Weberg v. Franks*, 229 F.3d 514, 528 (6<sup>th</sup> Cir. 2000).

Thus, the question whether an agreement exists should not be taken from the jury in a civil conspiracy case so long as there is a possibility that the jury can “infer from the circumstances [that the alleged conspirators] had a ‘meeting of the minds’ and thus reached an understanding” to achieve the conspiracy’s objective. *Robinson v. Waterford*, 1989 U.S. App. LEXIS 12347, \*20-21 (6<sup>th</sup> Cir.) (quoting *Hampton v. Hanrahan*, 600 F.2d 600, 620 (7<sup>th</sup> Cir. 1979).

Express agreement among all the conspirators is not necessary to find the existence of a civil conspiracy. *Jackim v. Sam’s East, Inc.*, 378 Fed. Appx. 556, 563 (6<sup>th</sup> Cir. 2010).

In this case, Petitioner’s factual allegations set forth that Jennifer and Scott, after being informed by police investigators of their friend Jacobs’ false allegations against Petitioner, reached an agreement to not correct the known false allegations with the objective to keep Petitioner from providing a defense against the false allegations in the state criminal trial proceedings, despite the common knowledge of the probable results of a criminal trial.

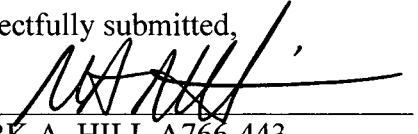
And that the other named Defendants contributed to, and continued the conspiracy, by failing to reveal to Petitioner’s defense investigator that Jennifer and Scott were witnesses, in order to protect their family friend.

Was this a case that should have proceeded beyond the pleading stage and, at the least, allowed a discovery period?

### CONCLUSION

For the foregoing reasons, the petition for writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark A. Hill', written over a horizontal line.

MARK A. HILL A766-443  
Pickaway Correctional Institution  
11781 State Route 762  
Orient, Ohio 43146

Petitioner, *pro se*

**CERTIFICATE OF COMPLIANCE**

No.

MARK A. HILL,

Petitioner,

vs.

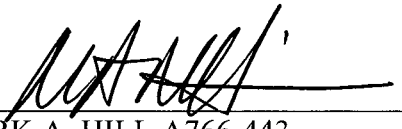
JENNIFER PELL, et al.,

Respondents.

As required by Supreme Court Rule 33.2, I certify that the petition for writ of certiorari contains only 18 pages, excluding the parts of the petition that are exempted by Supreme Court Rule 33.1(d).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 18, 2025.

  
\_\_\_\_\_  
MARK A. HILL A766-443  
Pickaway Correctional Institution  
11781 State Route 762  
Orient, Ohio 43146

Petitioner, *pro se*

**PETITIONER'S 28 U.S.C. § 1746 DECLARATION**

I declare under the penalty of perjury that the foregoing petition for writ of certiorari was deposited in the prison legal mail system of Pickaway Correctional Institution, first-class postage prepaid, on April 18, 2025.

  
MARK A. HILL A766-443

Petitioner, *pro se*

