25-601 ORIGINAL

NO. _____

IN THE SUPREME COURT OF THE UNITED STATES

RALSTON BROWN,

Petitioner,

-v.-

MELLEKAS, POLICE OFFICER COL.; IN THEIR INDIVIDUAL CAPACITY, DEPARTMENTOF STATE POLICE, SUPERIOR FOR THE CONNECTICUT; IN HIS OR HER INDIVIDUAL CAPACITY, MATTHEW GARCIA, POLICE OFFICER SAG.; IN THEIR INDIVIDUAL CAPACITY

Respondent

On Petition for Writ of Certiorari To
The United State Court of Appeals
For the Second Circuit

PETITION FOR WRIT OF CERTIORARI

Ralston Brown Pro Se Petitioner
102 Harral Avenue
Bridgeport, CT 06604
(475) 210-8166

Pro Se Petitioner

I. Question Presented

Weather the Respondent violated the Petitioner Constitutional Rights By acting under color of law?

II. Question Presented

Whether the New York Court of Appeals, overlooked Mr. Brown's arguments that the 1993 Alfred plea was not made intelligently, which the under color of State Law application of the Connecticut Megon's Law retroactive Statue, violated Mr. Brown's Federal substantive constitutional rights to due process?

III. Question Presented

Whether the New York Court of Appeal err in its conclusion that the application of the Connecticut Megon's Law retroactive Statue did not frustrate Mr. Brown's plea agreement contract?

IV. Question Presented

Whether the New York Court of Appeal err in its conclusion not to apply the judicial estoppel doctrine?

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C. Mandate, United State Court of Appeals for the Second Circuit, Brown v. CT Dept. of Public Safety, Court of Appeals No. 24-970 affirming the District Court July 9, 2025.

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JURISDICTIONAL STATEMENT

On March 25, 2024 the District Court for the District of New Haven Connecticut, Brown v. CT Dept. of Public Safety, District Court No. 3:22CV1270 (JAM) Granted Motion to Dismiss, Dismissing Mr. Brown's 1983 claims for Violation of Constitutional rights.

Mr. Brown timely appealed to the New York Court of Appeals for the Second Circuit. On April 3, 2025 the New York Court of Appeals, Affirmed the judgment of the District Court District of New Haven Connecticut. District Court No. 3:22CV1270 (JAM). Mr. Brown timely petition for rehearing in the New York Court of Appeals.

On June 26 2025 the New York Court of Appeals denied Mr. Brown timely petition for rehearing.

Mr. Brown invokes this Court's jurisdiction under 28 U.S.C. §1254 (1), and 28 U.S.C. § 1257 having timely filed this petition for a writ of certiorari within ninety days of the New York Court of Appeals judgment.

STATUTORY PROVISIONS INVOLVED

United States Constitution, Amendment XIV:

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, 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.

42 U.S. Code 1983

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, 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, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.

18 U.S. Code 3282 (a)

Except as otherwise expressly provided by law, no person shall be prosecuted, tried, or punished for any offense, not capital, unless the indictment is found or the information is instituted within five years next after such offense shall have been committed.

Conn. Public Acts 1976, No. 76-35

An Act Concerning the Limitation of Prosecutions "(b) No person may be prosecuted for any offense, except a capital felony or a class A felony, for which the punishment is or may be imprisonment in excess of one year, except within five years next after the offense has been committed. No person may be prosecuted for any other offense, except a capital felony or a class A felony, except within one year next after the offense has been committed.

STATEMENT OF THE CASE AND FACTS

(a) Prior Actions under Color of Law

Around 1997, Mr. Brown arrives home to discover that someone had broken in his apartment. Mr. Brown suspects his girlfriend at the time, had something to do with the break-in.

Mr. Brown confronted the girlfriend, who admitted her involvement with the break-in. Mr. Brown requested she returned the missing items that was taken. The girlfriend stated, the items were at her uncle's house in the nearby town which she agreed to go there and return the items. While waiting outside the resident for the girlfriend to return, several police arrived. She told police she knew nothing about the missing items that was taken from Mr. Brown's house. While searching for Mr. Brown's missing items, the police found a gun in the uncle's house.

The police decided to charge Mr. Brown for the gun. Mr. Brown was arrested and charged with a firearm, kidnapping with a firearm, and risk of injured to a minor.

Shortly after the incident, the Connecticut State Police was informed Mr. Brown was involved in the sale of narcotic. The Connecticut State Police started and conducted several months of investigation against Mr. Brown.

When the investigation turned up nothing, the Connecticut State Police, Police Officer Sag. Matthew Garcia, Police Officer Col. Mellekas and Superior for the Department of State Police, collectively, the "Individual Respondents", decided they would unconstitutionally, under color of law, violated Mr. Brown's plea agreement contract and substantive constitutional rights, by mandating that Mr. Brown comply with registration requirements for life, on May 12, 1999, eight years after the incident, and seven years after Connecticut enacted its version of the Megan's law.

(b) Prior Actions under Color of Law

Around 2007 Mr. Brown arrives at his Harral Ave home to find A man with a shopping cart filled with copper pipes he had cut and removed from Mr. Brown's house. Mr. Brown confronted the man which the man grabbed a crowbar he had and struck Mr. Brown Several times.

Mr. Brown managed to grab hold of the crowbar and pull it away from the man. The man soon after ran out the driveway down the street. Around a month after Mr. Brown saw the man at his house, this time he was with another man. Mr. Brown called the police. When the police arrived, Mr. Brown explained several weeks ago he caught the man broke in his house, when Mr. Brown confronted the man, he attacked Mr. Brown with a crowbar.

The police then went and spoke to the man. The man stated Mr. Brown beat him up and put him in the hospital. In short, the police told the man he was not going to make an arrest pertaining to the incident and told the man to stay away from Mr. Brown's property.

Several weeks passed, when several police showed up at Mr. Brown's home, which they arrested him and charged him for attempted murder. Mr. Brown decided he would take the matter to trial. The man decided not to cooperate with the police. The man stated, I said he beat me up I didn't say he did all that.

At trial, two Bridgeport Detective, falsely testified in court under oath, Mr. Brown confessed to them about the incident.

Despite Mr. Brown successful trial, the Bridgeport Police altered Mr. Brown's court records, and criminal records, to falsely states Mr. Brown was convicted of murder. The altered court records, is made a part of Mr. Brown criminal records and place on the internet.

(c) Prior Actions under Color of Law

On Monday, June 7, 2016 Mr. Brown went to Hertz car rental to pick up his work van and exchange a damaged car he rented June 3, 2016. As a favor Mr. Brown requested his sister drive back the renter car while Mr. Brown drive his work van.

The manager told Mr. Brown unfortunately he could not exchange the renter car at that time, because not many customers brought back cars over the weekend. After the conversation with the Hertz manager, Mr. Brown left the Hertz car rental, he drove his work van while his sister followed behind in the car rental.

several minutes in the drive Mr. Brown received a call from Hertz car rental. The Hertz employee told Mr. Brown he needed to return the keys to the renter car.

The Hertz employee stated she witnesses an unauthorized driver driving the Hertz rental, which is automatic for Mr. Brown to get place on the do not rent list, and she was requesting that Mr. Brown returned the car keys.

Mr. Brown signaled his sister to pull over, then explained what happened. Mr. Brown drove back to Hertz car rental alone and explain to the Hertz employee his sister was only doing him a favor so he could bring his work van to his house. The Hertz employee stated, the only person authorized to drive the rental car is Mr. Brown. The Hertz employee then stated, she witnesses the unauthorized driver hit another car in the parking lot.

Mr. Brown told the Hertz employee the rental car had not been in an accident, and requested that she go outside and inspect the car. The Hertz employee refused to inspect the car. She stated, she had already called the police and reported the accident. Mr. Brown then went outside to wait for the police.

Several Fairfield police arrived; Mr. Brown was sitting on a guardrail waiting. The investigating officer first went and spoke to the Hertz employee. According to the police report, the Hertz employee stated, she rented Mr. Brown the car and Mr. Brown were the only person authorized to operate the rental. After the transaction for renting the car was completed, she went out to the side parking lot (696 Post Rd.) She observed an unknown dark-skinned female with long hair operating

the vehicle. The black female operator struck the right rear bumper of parked and unoccupied white maxima.

The investigating officer then spoke to Mr. Brown. There were two other offices standing nearby. The investigating officer asked Mr. Brown who was driving the car and was Mr. Brown aware that the vehicle was involved in an accident. Mr. Brown told the officer that his sister was driving but he was unaware that there had been an accident. The investigating officer requested Mr. Brown's insurance, which Mr. Brown provided.

The investigating officer asked Mr. Brown to contact his sister. Mr. Brown explained, his sister was visiting from Canada and did not have a contact number In the U.S. He told the officer that the only way to get his sister back is if he goes to the house and bring her back. The Investigating officer asks Mr. Brown was there someone else who knows his sister number. Mr. Brown stated that his father knows the number but he is also visiting from Canada.

Suddenly one of the officers standing nearby (the Sgt) said I don't believe him, arrest him and charge him with interfering with an investigation. The investigating officer stated Mr. Brown that he knew Mr. Brown wasn't the driver of the car and had insurance, however, was going to make Mr. Brown spent a lot of money for being a wise ass. The investigating officer then placed Mr. Brown under arrest and told him he was going to charge him with interfering with an investigation.

Then the investigating officer transported Mr. Brown to Fairfield Police Department for arrest processing.

While at the Fairfield Police Department the investigating officer told Mr. Brown that he could give Mr. Brown a promise to appear however, he added an evading responsibility charge which requires that Mr. Brown pay a bond for being a wise ass. In his determination to punish Mr. Brown for being a wise ass, the investigating officer wrote in the police report, stated Mr. Brown is a register sexual offender and convicted murderer.

The Fairfield citizen (Hearst Connecticut Media Group) under color of law, and in violation of Federal Constitutional Rights, and a Connecticut statue, permanently publish the false police report in a blog on the internet. The blog unconstitutionally displays Mr. Brown mugshot and the report of the unlawful arrest by the Fairfield police.

Despite complying with the Fairfield citizen (Hearst Connecticut Media Group request, that the case was dismissed, the Fairfield citizen (Hearst Connecticut Media Group) acting under color of state law, refused to remove the blog off the internet since June 7, 2016. The blog is linked to the Connecticut Media Group website and has been permanently publish on the internet.

The petitioner, included these incidents to demonstrate the unlawful actions by law enforcement are common throughout the State of Connecticut. These violations of State and Federal Constitutional Rights are committed under color of law.

REASONS FOR GRANTING THE WRIT

I. Weather the Respondent violated the Petitioner Constitutional Rights By acting under color of Law?

The New York Court of Appeals panel stated they agree with the District Court that Mr. Brown failed to allege that the Respondents-Appellees were personally involved in his 1993 plea, conviction, or sentence in order. Here, the panel majority erroneously overlooked Mr. Brown alleged the individual Respondent engaged under color of state law to violate Mr. Brown's plea agreement contract and substantive constitutional rights.

The panel majority completely abandoned the disjunctive test written into the statute and articulated by this Supreme Court.

The principle of separation of powers dictates that different branches of government have specific functions. Lawmaking (including retroactivity) is the

responsibility of the legislature, not the police. If a state legislature passes a law that changes the penalties for a certain crime, the state police would enforce the new law moving forward, but they would not have the power to apply the new penalty to offenses that occurred before the law was passed.

See. *Morrison* v. *Olson,* 487 U. S. 654, 685-696 (1988); *Bowsher* v. *Synar,* 478 U. S., at 725.

"The traditional definition of acting under color of state law requires that the Respondent in a § 1983 action have exercised power 'possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law.'" West v. Atkins, 487 U.S. 42, 49 (1988) (quoting United States v. Classic, 313 U.S. 299, 326 (1941)).

The State of Connecticut enacted its version of the Megan's law on October 1, 1994, with retroactive

effect of 1988. Mr. Brown was release in December 1993, then Mr. Brown served three years' probation. Therefore, the State of Connecticut had Mr. Brown in its custody and could have given notice or attempt to mandate Mr. Brown to registration requirement in 1994, when Connecticut enacted its version of the Megan's law.

The time period within which, Mr. Brown's plea agreement contract, and substantive constitutional rights, is violated, is a time period within which Mr. Brown is protected by Connecticut General Statutes § 54-193. The Connecticut General Statutes § 54-193 barred the under color of law application of the retroactive Megan's law Statue against Mr. Brown. The Connecticut General Statutes § 54-193 has a clear directive, which compliance is necessary to authorize

the retroactive application of the Megan's Law Statue. See *Landgraf* v. *USI Film Products,* 511 U. S., at 263.

Although the parties have fully briefed the issue of the application of the ex post facto clause to these proceedings, our determination that General Statutes § 54-193 is to be applied prospectively only, renders consideration of that constitutional question unnecessary. *Anderson* v. *Ludgin,* 175 Conn. 545, 557, *400 A.2d 712* (1978); see *East Village Associates, Inc* v. *Monroe,* 173 Conn. 328, 333-34, *377 A.2d 1092* (1977).

18 U.S. Code 3282 (a): Except as otherwise expressly provided by law, no person shall be prosecuted, tried, or punished for any offense, not capital, unless the indictment is found or the information is instituted within five years next after such offense shall have been committed.

Connecticut Public Acts 1976, No. 76-35 provides: "An Act Concerning the Limitation of Prosecutions "Section 1. Section 54-193 of the general statutes is repealed and the following is substituted in lieu thereof: "(b) No person may be prosecuted for any offense, except a capital felony or a class A felony, for which the punishment is or may be imprisonment in excess of one year, except within five years next after the offense has been committed. No person may be prosecuted for any other offense, except a capital felony or a class A felony, except within one year next after the offense has been committed.

When any suit, indictment, information or complaint for any crime may be brought within any other time than is limited by this section, it shall be brought within such time.

See.
State v. *Tedesco,* 175 Conn. 279,291, *397 A.2d 1352(*19 78). Section 54-193 is penal in

nature; *State* v. *Anonymous* (1976-6), *33 Conn. Super. Ct. 34*, 39, *358 A.2d 691* (1976); and hence, must be liberally construed in favor of the accused.
State v. *Bello,* 133 Conn. 600,604, 53 A.2d 381 (1947).
See Also. *Waters* v. *United States,* 328 F.2d 739, 742 (10th Cir. 1964)
See Also. United States v. *Moriarty,* 327 F. Sup. **353* 1045, 1047 (E.D. Wis. 1971); *State* v. *Fogel, 16 Ariz. App. 246*, 248, 492 P.2d 742 (1972

Here, even if the State of Connecticut had an intelligent plea from Mr. Brown, which it does not, the application of the Megan's law retractive Statue is timed barred. Connecticut General Statutes § 54-193 has a maximum five-year time limit after the offense has been committed, to enact a retroactive statute, which if the plea was intelligent, which it is not, Connecticut had until April 23, 1997 to enact the Megan's law retroactive Statue against Mr. Brown.

Mr. Brown complaint pled, and has satisfied the first element to move forward with his claim that the Respondents acted under color of state law, which the

Respondents were using power that they possessed by virtue of state law to violate Mr. Brown's constitutional rights.

The complaint has properly presented the course of action that satisfy the federal standard for Mr. Brown to reach the merits of the complaint, to present evidence that demonstrate the State of Connecticut knowingly acquiesced in unconstitutional behavior, which resulted in the violation of Mr. Brown's Federal Constitutional rights.

This Petition for Writ of Certiorari further demonstrate, that it is the common practice throughout the State of Connecticut for individual police to act under color of law to violate State and Federal Constitutional Rights. This Petition for Writ of Certiorari further demonstrate the respective municipal agency, throughout the State of Connecticut knowingly

acquiesced in unconstitutional behavior, which by doing so, the State of Connecticut violated Mr. Brown's plea agreement contract and substantive Federal Constitutional Rights to due process.

The Respondents were clothed with the authority of the state, by using or misusing the authority of the state. The Respondents used statute, ordinance, regulation, custom municipality, municipal agencies to accomplish the violation of Mr. Brown's plea agreement contract, State, and Federal Constitutional Rights.

Conduct satisfying Section 1983's action under color of state law." See Lugar v. Edmondson Oil Co., 457 U.S. 922, 935 n.18 (1982). See also Brentwood Acad. v. Tennessee Secondary Sch. Athletic Ass'n, 531 U.S. 288, 295 n.2 (2001) (The Respondent's conduct satisfies the state-action requirement of the Fourteenth Amendment, the conduct also constitutes action 'under color of state

law' for § 1983 purposes. Blum v. Yaretsky, 457 U.S. 991, 1002 (1982) (quoting Shelley v. Kraemer, 334 U.S. 1, 13 (1948). See Also National Collegiate Athletic Ass'n v. Tarkanian, 488 U.S. 179, 191 (1988) (quoting Monroe v. Pape, 365 U.S. 167, 172 (1961).

"The traditional definition of acting under color of state law requires that the Respondent in a § 1983 action have exercised power 'possessed by virtue of state law and made possible only because the Respondent is clothed with the authority of state law.'" West v. Atkins, 487 U.S. 42, 49 (1988) (quoting United States v. Classic, 313 U.S. 299, 326 (1941).

The inquiry into the question of action under color of state law "is fact-specific." Groman v. Township of Manalapan, 47 F.3d 628, 638 (3d Cir. 1995). "In the typical case raising a state-action issue, a private party has taken the decisive step that caused the harm to Mr.

Brown, and the question is whether the State was sufficiently involved to treat that decisive conduct as state action.

Thus, in the usual case we ask whether the State provided a mantle of authority that enhanced the power of the harm-causing individual actor. Tarkanian, 488 U.S. at 192. See Also Andrews v. City of Philadelphia, 895 F.2d 1469, 1481 (3d Cir. 1990) LaVerdure v. 8 County of Montgomery, 324 F.3d 123, 125 (3d Cir. 2003

Circumstances that can underpin a finding of state action include the following:

• A finding of "'a sufficiently close nexus between the state and the challenged action of the [private] entity so that the action of the latter may fairly be treated as that of the State itself.'"

- A finding that "the State create[d] the legal framework governing the conduct."

- A finding that the government "delegate[d] its authority to the private actor."

- A finding that "the private party has acted with the help of or in concert with state officials."

- A finding that the action "'result[ed] from the State's exercise of "coercive power."

- A finding that "'the State provide[d] "significant encouragement, either overt or covert'" "Knowingly accept[ed] the benefits derived from unconstitutional behavior."

See Harvey v. Plains Twp. Police Dept., 421 F.3d 185, 195-96 (3d Cir. 2005). Benn v. Universal Health System, Inc., 371 F.3d 165, 171 (3d Cir. 2004)

The Respondents are government officials, Police Officer Sag. Matthew Garcia, Police Officer Col. Mellekas and Superior for the Department of State Police were an official of the State of Connecticut at the relevant time, which Connecticut knowingly acquiesced in their decisions.

In other words, even if these Respondents were private individual and not a state official, the relationship between Respondent and the state was sufficiently close that they were acting under color of state law.

ALFORD PLEA NOT INTELLIGENT

II. Weather the New York Court of Appeals, overlooked Mr. Brown's arguments that the 1993 Alfred plea was not made intelligently, which the under color of State Law application of the Connecticut Megon's Law retroactive Statue, violated Mr. Brown's Federal substantive constitutional rights to due process?

The New York Court of Appeals decision directly contravenes binding Supreme Court and Circuit precedent and vitiates the statutory enforcement. Mr. Brown Appeal argued, the 1993 Alfred plea was not made intelligently. Mr. Brown stated, because the 1993 Alfred plea was not made intelligently, the application of Connecticut registration requirements violated substantive constitutional rights to due process.

The panel majority erroneously overlooked Mr. Brown's main argument on appeal, that the 1993 Alfred plea was not made intelligently. ***Mr. Brown has abandoned and makes No arguments on the***

regulatory or procedural component of due process. Mr. Brown did not and has not argued the retroactive application of Megan's Law violates the Ex Post Facto Clause, nor is Mr. Brown argument about substantive due process right to privacy, nor is Mr. Brown arguing, Connecticut sex offender registration regulatory is punitive in nature.

Mr. Brown's Appeal argued, the 1993 Alfred plea was not made intelligently. Mr. Brown stated, because the 1993 Alfred plea was not made intelligently, the application of Connecticut registration requirements violated substantive constitutional rights to due process.

Mr. Brown arguments on appeal are, the Respondents) violated substantive constitutional rights to due process because Connecticut does not have an intelligent plea from Mr. Brown as require by the

Constitution of the United States, to justify registration requirement.

Plea bargaining flows from "the mutuality of advantage" to defendants and prosecutors, each with their own reasons for wanting to avoid trial. Brady v. United States, supra, at 752

See McCarthy v. United States,394 U.S 459, 466, 89 S. Ct. 1166, 22 L. Ed.2d 418 (1969), See Taylor v. Illinois, 484 U.S. 400, 417-418, and n. 24, 108 S Ct. 646, 98 L Ed 2d 798 (1988).

Mr. Brown's claims are substantive challenge to the Connecticut statue, the fact that the State Court did not advise Mr. Brown of the consequence; after making the Alfred plea, would subject Mr. Brown to registration requirement for life, is a substantive constitutional violation of due process. Such a plea is not intelligent as required by the Constitution of the United States.

The Smith v. Doe Supreme Court ruling the State of Connecticut relied on, to up hold the registry requirement against Mr. Brown are procedural rights to due process, which is unrelated to Mr. Brown's argument. Mr. Brown's substantive constitutional rights challenged the intelligence of the plea, the State of Connecticut used to up hold registry requirement against Mr. Brown. The Respondent, District Court, and the New York Court of Appeals, all has overlooked this argument.

The Respondent filed motion to dismiss on the grounds that this Supreme Court ruled on a matter similar as Mr. Brown's claims, and ruled that procedural due process was not a challenge or violation to the state's statue. The District Court gave Mr. Brown an opportunity to look over the two case the Respondent sited and submitted a supplemental objection to the Respondent's motion to dismiss. Upon examine the two Supreme Court case the District Court provided, Mr. Brown discover the Supreme Court did not rule as the Respondent believed, or argued to the court.

The Supreme Court did not give its opinion on the substantive component of due process. The Supreme Court stated: It may be that respondent's claim is

actually a substantive challenge to Connecticut's statute "recast in 'procedural due process' terms." *Reno* v. *Flores,* 507 U. S. 292, 308 (1993). Nonetheless, respondent expressly disavows any reliance on the substantive component of the Fourteenth Amendment's protections, Brief for Respondents 44-45, and maintains, as he did below, that his challenge is strictly a procedural one.

But States are not barred by principles of *"procedural* due process" from drawing such classifications. *Michael H.* v. *Gerald D.,* 491 U. S. 110, 120 (1989) (plurality opinion) (emphasis in original). See also *id.,* at 132 (STEVENS, J., concurring in judgment). Such claims "must ultimately be analyzed" in terms of substantive, not procedural, due process. *Id.,* at 121. Because the question is not properly before us, we express no opinion as to whether Connecticut's Megan's Law violates principles of substantive due process.

See Generally *Kaiser Aluminum & Chemical Corp.* v. *Bonjorno,* 494 U. S. 827, 840 (1990) (Scalia, J., concurring).

The New York Court of Appeals Summary Order highlights Mr. Brown's contention of an intelligent plea agreement. In its Summary Order the Court of Appeals sited Burrell v. United States which stated, Alford plea results in the Respondent's conviction on the crime at issue to the same extent as any other guilty plea." The

New York Court of Appeals sited, Burrell v. United States, 384 F.3d 22, 28 (2d Cir. 2004). The New York Court of Appeals stated, Mr. Brown was subject to the registration requirement based on a valid conviction.

However, all pleas, including an Alford plea, is valid only if the plea is made intelligently. Accordingly, the Connecticut Superior Court found it necessary to vacate Burrell State conviction because Burrell's Connecticut Superior Court plea was not intelligent. *See State v. Burrell,* No. CR90-52481 (Conn. Super. Ct. June 22, 1999.

Burrell's motion argued that vacating the plea was warranted because the Connecticut Superior Court trial judge had failed to comply with Conn. Practice Book § 39-20 (requiring court to ascertain whether a plea "results from prior discussions" between the prosecution and the defense and to ensure that "the plea

is voluntary and is not the result of force or threats or of promises apart from a plea agreement"), and Conn. Gen. Stat. § 54-1j (requiring court to advise Respondent of the immigration consequences of his plea).

Mr. Brown argument on appeal materially identical to the facts of the Burrell's in the Connecticut Superior Court action, which the Connecticut Superior Court found it appropriate to vacate Burrell State conviction. *See State v. Burrell,* No. CR90-52481 (Conn. Super. Ct. June 22, 1999). Mr. Brown argument which stated the 1993 Alfred plea is not intelligent, was properly presented before the District Court. However, the Respondent, District Court, and the New York Court of Appeals, all has overlooked Mr. Brown's argument.

FRUSTRATION OF PURPOSE

III. Whether the New York Court of Appeal err in its conclusion that the application of the Connecticut Megon's Law retroactive Statue, did not frustrate Mr. Brown's plea agreement contract?

The majority improperly concluded Mr. Brown receive the expected value from the plea agreement contract. The New York's Court of Appeal stated: we reject Mr. Brown's argument because Connecticut's registration requirement did not render Mr. Brown's plea agreement "valueless" to Mr. Brown, which the Court of Appeal sited, United States v. Gen. Douglas MacArthur Senior Vill., 508 F.2d 377, 381 (2d Cir. 1974).

The New York Courts of Appeal overlooked the difference between General Douglas MacArthur Property and Mr. Brown's claims. The United States did not retroactive apply tax liens to General Douglas

MacArthur's Property, and the tax liens transaction had warning that the property had a superior tax lien, despite failing to disclose the property had a mortgage lien by the United State.

Unlike the United States v. General Douglas Senior Village case, Connecticut did not advise or warned Mr. Brown it would be powerless to fulfil the plea agreement obligation, because there existed a superior obligation, which would render the plea agreement contract valueless.

There is a broader context within which the superior Connecticut statute and the United State Constitutional Rights to due process must operate. To the contrary, Connecticut does not have a superior interest in the Alfred plea agreement with Mr. Brown. Both parties enter into the contract mutually.

Connecticut must operate by the supremacy Connecticut Statute to fulfil the plea agreement contracts to Mr. Brown, and uphold the United State Constitutional Rights to due process, which ensure each plea are made intelligently and Connecticut fulfil the promise it uses to induce a plea agreement. See New Brunswick v. United States, 276 U.S. 547, 48 S.Ct. 371, 72 L.Ed. 693 (1928); *cf.* McCulloch v. Maryland, 17 U.S. (4 Wheat.) 316 (1819),

A failure to deliver a tax lien enforceable by the seller itself is thus joined to a mutual mistake of law. Neither the seller nor the buyers knew that the tax lien did not possess the normal legal characteristics of a tax lien. The seller was unjustly enriched when it was paid for a lien it could not itself enforce against the federal mortgage interest. See Rosenblum v. Manufacturers Trust Co., 270 N.Y. 79, 85, 200 N.E. 587 (1936).

Connecticut has the power and the contractual obligation to uphold its State Statute and Federal Constitutional Rights under Federal Law. To the contrary, Connecticut created the frustration of the plea agreement, and is not powerless in fulfilling its obligation to creating a warranty of the contract between Mr. Brown. The Connecticut State Legislature has seen fit to date, to override by statute its common law obligation to plea agreement contracts, which warrant its priority. See *Chew Heong* v. *United States,* 112 U. S. 536 (1884),

When the mistake of law is a part of the fundamental basis of the transaction, rescission is permitted because there is present the further element of failure of consideration. Williston, *supra,* § 1584. For an application of the modern view, see Ryan v. Vickers,

158 Colo. 274, 406 P.2d 794 (1965), cert. denied, 383 U.S. 944, 86 S.Ct. 1201, 16 L.Ed.2d 208 (1966).

If the New York Courts of Appeal Summary Order is to be adapted, then Connecticut was in no position to offer the plea agreement to Mr. Brown. In that since, Connecticut would have failed to disclose that it is powerless to fulfil its obligation to the plea agreement contract, which the plea agreement would be unintelligent and violate Substantive constitutional rights.

JUDICIAL ESTOPPEL DOCTRINE

IV. Whether the New York Court of Appeal err in its conclusion, not to apply the judicial estoppel doctrine?

In applying judicial estoppel doctrine, Mr. Brown requested that the District Court look at the facts of the case. The State of Connecticut did not mandate Mr. Brown to registration requirement, the Department of State police, under color of law made the decision to add Mr. Brown to the Connecticut registry.

The representation the Respondent made to Mr. Brown is a decision Mr. Brown seeks in his complaint against the Respondent. The Respondent's representation, (the Connecticut legislature voted and passed legislation that would remove the unconstitutional statue from its laws in October 1, 2023) was presented to two courts, which one of the courts

accepted the representation and presented a favorable ruling for Mr. Brown.

The representation is not an error because the Connecticut legislature convened to vote and pass the legislation, to remove the unconstitutional statue from Connecticut's laws. However, there was some protest against the vote. The Connecticut legislature then decided to put off the vote for another time.

The party seeking to invoke the estoppel, however, must have been on adverse party in the prior proceeding, must have acted in reliance on his opponent prior position, and must know face injury if a court were to permit his opponent to change positions. See Galt v. Phoenix Indemnity Co., 74 U. S. App. D.C. 156, 159, 120 F 2d 723, 726 (D. C. Cir 1941).

Applying The doctrine of judicial estoppel is appropriate in the current situation, because Mr. Brown

complaint accused the Respondent of violation of his Federal Constitutional Rights. The Respondents recognized its retroactive application of Connecticut statue violated Federal Constitutional rights, therefore decided to remove the unconstitutional statue from its laws. The Connecticut legislature convened to pass the legislation; However, the voting process was interrupted. The State Courts accepted the representation and presented a favorable ruling for Mr. Brown.

CONCLUSION

This case presents questions of exceptional importance. When deciding a motion to dismiss under 12(b)(6), only the plaintiff allegations contained in his pleading is challenged, not his evidence. *See al-Kidd v. Ashcroft,* 580 F.3d 949, 977 (9th Cir.2009). Thus, as long as the complaint provides fair notice of the nature of the claims and grounds on which the claims rest, it need not include all of the facts necessary to carry the plaintiff burden.

The function of a motion to dismiss is `merely to assess the legal feasibility of the complaint, not to assay

the weight of the evidence which might be offered in support thereof.'" Mytych v. May Dep't Store Co., 34 F. Supp. 2d 130, 131 (D. Conn. 1999) (quoting Ryder Energy Distribution v. Merrill Lynch Commodities, Inc., 748 F.2d 774, 779 (2d Cir. 1984)). The issue on a motion to dismiss "is not whether the plaintiff will prevail, but whether the plaintiff is entitled to offer evidence to support his claims." United States v. Yale New Haven Hosp., 727 F. Supp. 784, 786 (D. Conn. 1990) (citing Scheuer, 416 U.S. at 232).

For the reasons set forth, Mr. Brown's respectfully request the Court grant Petition for Writ of Certiorari.

Respectfully Submitted,

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By: _____

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