No. 25-614



In The

# Supreme Court of the United States

JEFFERSON A. MCGEE,

*Petitioner,*

vs.

STATE OF CALIFORNIA,

*Respondent,*

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

## PETITION FOR WRIT OF CERTIORARI

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## QUESTION PRESENTED

Plaintiff-Appellant below, Petitioner here is an African American citizen of the United States who resides in a state that is using law enforcement programs and activities receiving federal financial assistance to discriminate against him and other African Americans on the grounds of their race and color. Petitioner filed a complaint in the district court alleging the State is violating his rights secured by the United States Constitution. The district court dismissed the action, and the court of appeal refused to allow the appeal to proceed. Thus, the question presented by this petition is:

Whether the appeal in this action lacked merit to proceed and therefore should not have been allowed to proceed.

## PARTIES TO THE PROCEEDINGS

The following Plaintiff-Appellant, Petitioner here, asserted a federal question in the trial court:

Jefferson A. McGee.

The following was Defendant-Appellee, the Respondent here, in the trial court:

The State of California.

A list of all related cases in the State and Federal trial and appellate court is set out in Appendix 300-309.

## RULE 29.6 STATEMENT

Pursuant to Rule 29.6 of the Supreme Court Rules, Petitioner affirms that he has no parent company and is not a public owned company.

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## PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for The Ninth Circuit.

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## STATEMENT OF JURISDICTION

The date the judgment or order sought to be reviewed was entered August 29, 2025. No request for rehearing was made. The statutory provisions believed to confer on this Court jurisdiction to review on writ of certiorari the judgment or order in question is Title 28 U.S.C. § 1254.

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## OPINIONS BELOW

The decision of the United States Court of Appeals for The Ninth Circuit is represented at App. 1 and 2.

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## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Constitutional and Statutory Provisions involved in this action are set out in App.3-19.

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## INTRODUCTION

This case questions whether a lawsuit requesting injunctive relief and alleging: from December 1993 until present, the State of California its Governors, Attorney

Generals, Legislative Bodies, political subdivisions, municipalities, agencies and people (the State) is using law enforcement programs and activities that are receiving federal financial assistance to engage in a vast racially motivated conspiracy to deprive Plaintiff and other African Americans of their rights secured by the Constitution and laws of the United States and the State of California on the grounds of their race through a policy of racial discrimination, that was dismissed by the district court as frivolous and repetitive, should have been allowed to proceed in the court of appeal.

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## STATEMENT OF CASE

### A. Factual background

On January 2, 2024, Petitioner filed *McGee v. State of California* 2:24-cv-00012-TLN-AC-PS (McGee XV) in the United States District Court for the Eastern District of California (the district court). Chief Judge Troy L. Nunley summarized the facts in the case as follows:

> "Plaintiff, proceeding pro se, filed the Complaint and instant motion for TRO on January 2, 2024. (ECF Nos. 1, 3.) At the outset, Plaintiff's 141-page Complaint lacks clarity. Plaintiff broadly alleges Defendants engaged in a "racially motivated conspiracy" in violation of various state and federal laws. (ECF No. 1 at 8.) More specifically, Plaintiff alleges Defendants "conspired to deprive [him] and other African Americans of the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of Little League Baseball, Inc., Airport Little League Baseball, Inc., and [a] sports arena owned by the City." (Id.) Plaintiff also alleges Defendants prevented him from using City property and intimidated and retaliated against him in October 2021 because he had filed prior actions against the City in 2010 and 2014. (Id.) Plaintiff then alleges Defendants sent him letters in October, November, and December 2023 demanding he pay

> the County $7,517 to punish him for filing the prior actions. (Id. at 8–9.) Plaintiff alleges he "is frightened" and "it is hard for [him] to concentrate on his work because [he] does not know what [Defendants] will do to collect the $7,517." (Id. at 9.) Plaintiff seeks monetary damages and injunctive relief. (Id. at 138–149.)"
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> "Like the Complaint, the instant motion for a TRO also lacks clarity. Plaintiff requests the Court enjoin Defendants from taking the following actions: (1) intimidating and retaliating against him; (2) searching, detaining, or harassing him; (3) withholding and interfering with his real and personal property; (4) refusing to enter judgments in his favor; (5) maintaining false criminal records on him; (6) interfering with Plaintiff's liquor license for his business; (7) withholding Plaintiff's handgun; (8) using government entities and public monies to break the laws of the United States; (9) implementing a general policy and conspiracy to discriminate against African Americans; and (10) that Little League Baseball, Inc. be enjoined from holding any games, tournaments, practices, or conditioning sessions. (ECF No. 3 at 2–3.)..."
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> "As to irreparable harm, Plaintiff argues Defendants sent him letters in October, November, and December 2023, demanding payment of $7,517. (ECF No. 3 at 24.) Plaintiff argues these letters "punished Plaintiff by intimidating and retaliat[ing] against him." (Id.) Plaintiff also argues the State of California has refused and neglected to arrest individuals that Plaintiff previously alleged committed crimes against him. (Id. at 25.) Plaintiff then vaguely argues that if Defendants are not restrained, he will continue to suffer irreparable injury. (Id. at 25–26.)..." *See App 23-33.*

Magistrate Judge Alison Claire summarized Plaintiff's previous actions in the district court in *McGee XV* in her Order to Show Cause why Plaintiff Should Not be Declared a Vexatious Litigant, dated July 1, 2024. (OSC) Judge Claire wrote:

> "In his first case, *McGee v. Craig*, the court summarized the suit as follows: "In a 188-page complaint filed June 3, 1998, plaintiffs complain that more than 200 defendants, including the Governor of the State of California, the State Attorney General, the Sacramento District Attorney, a newspaper, a school district, little league baseball, and officers of state and local agencies, among others, conspired to deny plaintiffs' civil rights. McGee I at ECF No. 216."
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> "Between McGee I and the case at bar, plaintiff has filed at least six lawsuits alleging vast racists conspiracies among large swaths of the private and public sectors. See McGee III, McGee VII, McGee IX, McGee

XII, McGee XIII, McGee XIV. The claims and defendants in these cases were substantively the same, as often expressly acknowledged by the plaintiff himself. For example, in McGee XII, Plaintiff sued a large number of defendants including the Governor of the State of California, the State Attorney General, the Sacramento City Council, multiple little league baseball organizations, the Doubletree Hotel, a property management company, and multiple law firms. McGee XII at ECF No. 1. The complaint stated that "All wrongs complained of in this compliant were committed against plaintiff pursuant to defendant's policy of 'Discriminating Against African American in Law Enforcement Programs and Activities,' (the Policy) and for the purpose of implementing, maintaining, promulgating, and executing the Policy." Id. at 7. Mr. McGee wrote that his case was part of an ongoing discrimination conspiracy that had been in process since December 15, 1993, and he cited his own lawsuits going back to McGee I. Id. at 8- 55..."

"McGee XII was before Magistrate Judge Kendall J. Newman, who summarized the case by stating that the "claims are apparently based on numerous different incidents that allegedly took place from approximately 1993-2014, including, but not limited to, exclusion from participation in the affairs of Florin Little League Baseball, various hostile encounters with different city and county law enforcement agencies, plaintiff's eviction from multiple properties through unlawful detainer actions, certain debt collection activities undertaken against plaintiff, the prosecution of criminal actions against plaintiff, interference with plaintiff's businesses and liquor licenses for those businesses, an incident of racial discrimination at a hotel, and failure to protect plaintiff from a hostile neighbor." ECF No. 17 at 4. Judge Newman went on to recommend dismissal of most of the defendants for improper joinder, finding that although "plaintiff asserts in conclusory fashion that all defendants acted as part of a vast racially motivated conspiracy, the above-mentioned incidents in plaintiff's complaint actually implicate different groups of defendants (from different governmental and private entities), and involve different events, different types of acts, different times, and different subject matter. As such, plaintiff has improperly joined defendants in this action." Id. at 6. Judge Newman then sua sponte recommended dismissal of the remainder of plaintiff's complaint on the grounds of claim preclusion and res judicata. When discussing the claims against little league baseball, Judge Newman noted that plaintiff's complaint expressly referenced McGee I and found that "the claims in both the 1998 action and the present action (as narrowed) arise from the same transactional nucleus of facts concerning plaintiff's exclusion from participation in the affairs of' little league baseball..."

"Now before the court is McGee XV. The case is reminiscent of the cases which preceded it. Plaintiff sues the Governor of the State of California, the State Attorney General, the City of Sacramento, the Sacramento District Attorney, a newspaper editor, a school district, little league baseball organizations, the Doubletree Hotel, and numerous officers of state and local agencies, among others. ECF No. 28 at 1-4. Plaintiff alleges that "From December 1993 until the present [the Elk Grove Unified School District] and each Defendant listed in the Complaint have been engaged in a vast racially motivated conspiracy to deprive Plaintiff and others their rights secured by the Fourteenth Amendment of the United States Constitution . . . on the grounds of their race and color and solely on account they are African American (the racially motivated conspiracy)[.]" Id. at 7[1]. The Amended Complaint specifically acknowledges that the case before the court today is part of a series of repetitive lawsuits. Under the heading "History of the Conspiracy" plaintiff writes, "Plaintiff has frequented this court on numerous occasions with his pro se litigation. A review of the court's dockets indicates that plaintiff has filed over ten complaints, including several complaints alleging the same conspiracy to violate plaintiff's civil rights against several of the same defendants." ECF No. 28 at 23 (citing McGee I, IV, VI, VII, VIII, and X, as well as a case plaintiff removed from state court in which he was the defendant, *Hildebrand v. McGee*, 2:00-cv-01578 GEB DAD, which was remanded). Plaintiff goes on to state that in McGee X, the court stated that "many of the 153 defendants named in the fourth amended complaint have been named in one or more of plaintiff's previous actions before this court." Id. at 25..."

"Plaintiff twice removed unlawful detainer actions that were immediately remanded to state court (McGee VI and McGee VIII).

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[1] The court notes that as part of the case at bar, plaintiff alleges that defendants continue to discriminate against him and that the County of Sacramento is retaliating against him for trying to collect $7,517 to "punish Plaintiff for taking action and participating in the action entitled *McGee v. Wilson* case no. Civ-S-98-1026-FCD-PAN-PS." Id. at 8-9. In the action to which plaintiff refers, McGee I, plaintiff asserted a similar vast conspiracy to discriminate against African Americans, and after the court determined that the complaint contained some "meritless and vexatious claims" defendants were awarded $14,000 in reasonable attorneys' fees. McGee I at ECF No. 514 at 9-13. Though it is not entirely clear from the instant complaint, plaintiff appears to be referring to the County's ongoing efforts to collect those fees.

> Plaintiff twice filed cases styled as actions in Habeas Corpus that were dismissed at the outset because plaintiff was not in custody (McGee X and McGee VI). In 2004, plaintiff attempted to remove a state criminal case against him to this court (McGee IV), and when that case was summarily remanded, he filed a civil action alleging a vast racist conspiracy to violate his rights based on the criminal prosecution (McGee V) ..."
>
> "Plaintiff's 140-page operative Amended Complaint alleges that defendants "have adopted, implemented, maintained, promulgated, and executed a Policy of Discriminating Against African Americans on the Grounds of their Race in Law Enforcement Programs and Activities." ECF No. 28 at 7. As stated above, Plaintiff acknowledges that this case is based on an ongoing race discrimination conspiracy theory that he has previously attempted to litigate without success. Id. ("[f]rom December 1993 until the present . . . each Defendant listed in this Complaint have been engaged in a vast racially motivated conspiracy to deprive Plaintiff and others of their rights secured by the Fourteenth Amendment of the United States Constitution . . . on the grounds of their race and color and solely on account they are African American (the racially motivated conspiracy[.])." *See Appendix 21-41.*

The State and other Defendants listed in *McGee XV* had an opportunity to dispute the allegations set out in Judge Claire's OSC dated July 1, 2024, and her Findings and Recommendations to Dismiss with Prejudice and to Declare Plaintiff a Vexatious Litigant filed on August 7, 2024 (FR). ECF Nos. 214, 215, 218, and 219, but did not dispute any of the allegations set out in the OSC or the FR. On September 5, 2024, Judge Nunley ordered the findings and recommendations filed on August 7, 2024, are "ADOPTED IN FULL." *See Appendix 67-68.* On October 15, 2024, Judge Claire recommended the case be dismissed for failure to comply with the court order. *See Appendix 69-70.* On January 24, 2025, Judge Nunley ADOPTED IN FULL the Findings and Recommendations filed on October 15, 2025, and DISMISSED the action for Plaintiff's failure to comply with the prefiling order.

*See Appendix 71-72.* On January 27, 2025, the district court entered a judgment in McGee XV and closed the case. *See App*endix 73-74.

*Complaints Factual Allegation*

"The complaint alleged: Jurisdiction of this court is evoked under the provisions of Title 28 U.S.C. §§ 1331, 1343(3), 1367(a)."

> "The State of California, the Governor of California, the Attorney General of California, the California Legislature their officers, legislative bodies, political subdivisions, municipalities, and agencies (hereinafter referred to as "the State") have adopted, implemented, maintained, promulgated, and executed a Policy of Discriminating Against African Americans on the Grounds of their Race in Law Enforcement Programs and Activities (the Policy). Defendant is executing the Policy while using law enforcement programs and activities receiving financial assistance from the United States Department of Justice (DOJ). From December 1993 until the present the State has been engaged in a vast racially motivated conspiracy to deprive Plaintiff and others of their rights secured by the Fourteenth Amendment to the United States Constitution (Fourteenth Amendment) Title 42 U.S.C. §§1981, 1982, 2000a, 2000d, and Ca. Civ. Code §51,(civil rights) on the grounds of their race and color and solely on the account they are African American, in violation of Title 18 U.S.C. §§ 1961 through 1968, Title 42 U.S.C. §§1983, 1985, 1986, Cal. Civ. Code §§ 51 and 52, causing Plaintiff to lose income. (the racially motivated conspiracy)." *See Appendix 74.*
>
> "In furtherance of the conspiracy set out above the State conspired to deprive Plaintiff and other African Americans of the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of Little League Baseball Inc. (LLBB), Airport Little League Baseball Inc. (APLL), Florin Little League Baseball Inc. (FLLB) and the sports arena owned by the municipalities and political subdivisions of the State of California."
>
> "On January 2, 2024, Plaintiff filed McGee XV in this Court complaining the State was engaged in a "racially motivated conspiracy" in violation of state and federal laws. Plaintiff also complained that in furtherance of the Conspiracy, the County of Sacramento (the County) sent him letters demanding he pay the County $7,517 to punish him for filing prior actions. Plaintiff further complained he is "frightened" and "it is hard for [him] to concentrate on his work because he does not know what Defendants will do to collect the $7,517. Plaintiff requested this Court grant him a temporary restraining order preventing defendants

from depriving him of his civil rights."

"Also, on or about January 2, 2024, the Governor and Attorney General received a copy of the complaint and the motion for TRO filed in McGee XV. After receiving the complaint and motion for TRO, the State made a decision to continue to engage in the racially motivated conspiracy and continue to demand Plaintiff pay the County $7,517 to punish him for filing prior action in this Court."

"From January 2, 2024, until present neither the State nor Little League Baseball objected to the motion for Temporary Restraining Order or denied any contention Plaintiff asserted in his request for TRO and the complaint filed in McGee XV."

"The State had actual knowledge that demanding that Plaintiff pay the County $7,517 was frightening Plaintiff and making it hard for him to concentrate on his work because Plaintiff did not know what the State and others would do to collect the $7,517."

"The State refused and neglected to prevent the County from punishing and harassing Plaintiff and continued to demand Plaintiff pay $7,517 in furtherance of the vast racially motivated conspiracy set forth in this complaint."

"On January 4, 2024, the Court entered an order denying Plaintiff's motion for TRO. The State did not deny any of the facts alleged in the complaint, TRO and other related filings to Plaintiff's motion for TRO."

"After Judge Nunley entered his order denying Plaintiff's request for TRO the County continued to send Plaintiff letters requesting Plaintiff pay the [County] $7,517."

"On November 2024, the Governor and Attorney General directed the California Department of Justice (CDOJ) to continue to participate in the vast racially motivated conspiracy by filing a motion to dismiss McGee XV to cover up the crimes being committed against Plaintiff. CDOJ filed a motion to dismiss McGee XV in furtherance of the conspiracy set forth in this complaint."

"On January 17, 2025, at around 11:30 am, a person from the County who identified herself as Mrs. DeWitt called Plaintiff on his phone and demanded Plaintiff pay the County $7,517 that she claimed he owed the County for legal fees." *See Appendix 2, 74-145.*

## Proceedings Below

### *In the Court of Appeals*

On March 7, 2025, Plaintiff filed a notice of appeal in the district court. On March 13, 2025, the United States Court of Appeal for the Ninth Circuit opened

*McGee v. State of California* 25-1670. Also, on March 13, 2025, the court of appeals entered a Prefiling Review Docketing Notice stating, "the appeal is subject to a pre-filing review order enter in case number {02-8003} and will be reviewed by the Court to determine whether it will be permitted to proceed." *See Appendix 12.*

On April 13, 2025, Appellant filed an Emergency Motion Under circuit Rule 27-3 requesting the court to enjoin the State from taking actions set forth in the appellee's motion for TRO in the district court. *See Appendix 146.* The State was given an opportunity to be heard on Appellant's emergency motion but failed to file objections to the motion or deny any contentions or evidence filed in support of the Emergency Motion.

On August 29, 2025, the court of appeals Circuit Judges Sidney R. Thomas, Berry G. Silverman, and Mark J. Bennett held: "The appeal lacks sufficient merit to proceed. (*See In Re Thomas* 508 F.3d 1225, 1227 (9th Cir 2007). Appeal No. 25-1670 is therefore dismissed all pending motions are denied as moot." *See Appendix 1-2.*

*In the district court*

On February 28, 2025, Plaintiff filed a complaint and motion for temporary restraining order in the district court case *McGee v. State of California* No. 2:25-cv-00716-TLN-CSK alleging the State was involved in a racially motivated conspiracy which was depriving Plaintiff and other African Americans of their civil rights. Plaintiff provided the State with notice of his motion for TRO, the Complaint, and the declaration by phone, email, and regular mail. The State did not oppose

Plaintiff's motion for TRO. Also on February 28, 2025, the district court dismissed and closed the case without giving Plaintiff a hearing. *See Appendix 74-145.*

Judge Nunley concluded that:

> "Plaintiff was declared a vexatious litigant in the U.S. District Court of *California* on September 5, 2025, in *Miller v. State of California* No. 2:24-cv-00012-TLN-AC (ECF Nos. 214 & 216) In filing the complaint and TRO in No. 2:25-cv-00176-TLN-CSK, Plaintiff did not follow the Pre-Filing Order for vexatious litigants. This case is determined to be frivolous, repetitive, and/or otherwise barred, and hereby DISMISSED. CLOSED." (ECF No. 5). *See Appendix 14.*

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## REASON FOR GRANTING THE PETITION, THE UNITED STATES COURT OF APPEAL FOR THE NINTH CIRCUIT HAS DECIDED AN IMPORTANT QUESTION OF FEDERAL LAW THAT HAS NOT BEEN BUT SHOULD BE SETTLED BY THIS COURT AND THE DECISION OF THE APPEALS COURT CONFLICTS WITH RELEVANT DECISIONS OF THIS COURT.

The question as to whether the "appeal lacked sufficient merit to proceed and therefore should have been dismissed is discussed below."

The Court of Appeals for the Ninth Circuit in *United States v. Houston*, held: "[i]n a nonemergency situation only where "it is manifest that the question on which the decision of the cause depends are so unsubstantial as not to need further argument 693. F. 2d 857, 858 (9th Cir. 1982) (citations omitted). Such summary affirmative "should be confined to appeals obviously controlled by precedent and cases in which the insubstantially [of the appeal] is manifest from the face of appellant's brief *Id.* Similarly, in *Franklin v. Murphy* we indicated that a court

could dismiss an informa pauperis action as frivolous before service of process when the complaint recites "bare conclusions with no suggestion of supporting facts, or postulating events and circumstances of wholly of fanciful kind." Or when the complaint recites facts that conflict with facts of which the district court may take judicial notice. 745 F. 2d 1221, 1228 (9th Cir. 1984) (quoting *Crisafl v. Holland*, 655 F. 2d 1305, 1307-08 D.C. Cir. 1981 (per curiam)).

Like summary affirming a final judgment on appeal or dismissing a frivolous complaint, precluding an appellant from proceeding with a petition or appeal pursuant to a pre-filing order restricts access to the court, and therefore, "must be based on adequate justification supported in the record and narrowly tailored to address abused perceived" *Delong v. Hennessy* 912 F. 2d 1144, 1149 (9th Cir), Cert. denied, 498 U.S. 1001, 111 S. Ct. 562, 112 C. Ed. 2d 9 (1991). According, we hold that when we have imposed pre-filing order requirements, we can preclude an appellant from proceeding with a petition or appeal only when it is clear from the face of the appellant's pleading that: (1) the appeal is patently insubstantial or clearly controlled by well settled precedent; or (2) the facts presented are fanciful or conflicts with facts of which the court may take judicial notice. See *Franklin v. Murphy* 745 F. 2d at 1228.

The question as to whether the district court should have dismissed the action because, Petitioner did not follow the pre-filing order for vexatious litigant, and the complaint is frivolous and vexatious Petitioner answers below.

On September 5, 2024, in *McGee XV*: Judge Nunley ordered:

> "1. The findings and recommendations filed on August 7, 2024, are ADOPTED IN FULL; 2. The court DECLARES Plaintiff Jefferson A. McGee, a vexatious litigant in the United States District Court for the Eastern District of California; 3. Plaintiff is held subject to the pre-filing order described in section IV of the findings and recommendations; 4. Plaintiff shall comply with the pre-filing order within (30) days of the electronic filing date of this order. *See Appendix 21-41.*

Petitioner filed his complaint in the district court in this action on February 28, 2025. February 28, 2025, was not within the 30 days Petitioner was required to comply with the Pre-Filing Order. Thus. Petitioner followed the Pre-Filing order." *See Appendix 42-66.*

Petitioner is likely to succeed on the merits of his appeal because Petitioner is not a vexatious litigant pursuant to Cal. Civ. Proc. §§ 391-391.8. The law and evidence on this issue are set out below.

The district courts have the power to issue pre-filing orders that restrict a litigant's ability to initiate court proceedings, but "such pre-filing orders are an extreme remedy that should rarely be used." *Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1057 (9th Cir. 2007) (citing *De Long v. Hennessey*, 912 F.2d 1144, 1147 (9th Cir. 1990). However, "[f]lagrant abuse of the judicial process cannot be tolerated because it enables one person to preempt the use of judicial time that properly could be used to consider the meritorious claims of other litigants." *De Long*, 912 F.2d at 1148.

> [I]n *De Long*, [the Ninth Circuit] outlined four factors for district courts to examine before entering pre-filing orders. First, the litigant must be given notice and a chance to be heard before the order is entered. *De Long*, 912 F.2d at 1147. Second, the district court must compile "an adequate record for review." Id. at 1148. Third, the district court must

> make substantive findings about the frivolous or harassing nature of the plaintiff's litigation. *Id.* Finally, the vexatious litigant order "must be narrowly tailored to closely fit the specific vice encountered." *Id.*

*Molski*, 500 F.3d at 4057. The first and second factors "are procedural considerations" while the third and fourth factors "are substantive considerations" which "help the district court define who is, in fact, a 'vexatious litigant' and construct a remedy that will stop the litigant's abusive behavior while not unduly infringing the litigant's right to access the courts." *Molski*, 500 F.3d at 1057-58.

The district court entered the pre-filing order without making substantive findings about the frivolous or harassing nature of Petitioner's litigation. The vexatious litigant order was not narrowly tailored to closely fit the specific vice encountered because Petitioner has a right to use the court to protect his civil rights. The district court abused its discretion when it declared Petitioner a vexatious litigant. *Delong 912 F.2d 1148. See Appendix 21-41, 42, and 42-66.*

"In 'applying the two substantive factors,' [the Ninth Circuit has] held that a separate set of considerations employed by the Second Circuit Court of Appeals 'provides a helpful framework.'" *Ringgold-Lockhart v. County of Los Angeles*, 761 F.3d 1057, 1062 (9th Cir. 2014) (quoting *Molski*, 500 F.3d at 1058).

> "The Second Circuit. . . has instructed district courts, in determining whether to enter a pre-filing order, to look at five factors: "(1) the litigant's history of litigation and in particular whether it entailed vexatious, harassing or duplicative lawsuits; (2) the litigant's motive in pursuing the litigation, e.g., does the litigant have an objective good faith expectation of prevailing?; (3) whether the litigant is represented by counsel; (4) whether the litigant has caused needless expense to other parties or has posed an unnecessary burden on the courts and their personnel; and (5) whether other sanctions would be adequate to protect

the courts and other parties." See *Bonilla v. Fresno County* No. 2:18-cv-2544-KJN-P.

It is undisputed that from June 3, 1998, Petitioner has filed many complaints alleging the State and more than 200 defendants conspired to deny Petitioner his civil rights. Filing complaints alleging a conspiracy to violate civil rights is not vexatious, harassing, or duplicative. *See Appendix 22-131*.

Petitioners' motive in pursuing the litigation was objective and done with a good faith expectation of prevailing on the merits of his claims. Defendant is engaged in a racially motivated conspiracy to violate Petitioner civil rights and Petitioner asked court to enjoin Defendant's conduct and grant him monetary damages. *See Appendix 22-131.*

Petitioner has not caused the court, its personnel, and other parties any unnecessary burdens. The district court has original jurisdiction over this civil action. See *Title 28 U.S.C § 1343.* It is a necessary burden for the district court and its personnel to hear complaints alleging violation of civil rights. It is Defendant's unconstitutional behavior that is causing an unnecessary burden on this court, its personnel and petitioner. *See Appendix 22-131 and 159-163.*

Any sanctions against Petitioner for pursuing the litigation at issue here would interfere with his access to the courts. There are sanctions of monetary damages, punitive damages, treble damages, injunctive relief and other remedies the court could employ against Defendants to adequately protect this court, its personnel, and

the public from the State's racist policy and conspiracy that is to violating Petitioner and other African Americans of their civil rights. *See Appendix 22-131.*

Petitioner is not a vexatious litigant pursuant to Cal. Civ. Proc. §§ 391-391.8. *See De Long* 912 F.2d at 1148. The pre-filing order is unduly infringing on Petitioner's rights to access the courts. "The due process clause requires that every man shall have protection of his day in court." *Trunx v. Corrigan* 257 U.S. 312, 332, 425 Ct. 34, 52 L. Ed (1921). And [this Court] has explained that the particular protection afforded by access to the court is "the right conservative of all other rights and lies at the foundation of orderly government." *Chambers v. Baltimore Co.,* 207 U.S. 142, 148, 28 S. Ct. 34, 52 L. Ed. 143.

Also, none of the claims set out in the Complaint are barred by the Eleventh Amendment.

"Congress may abrogate a state's sovereign immunity, but the Supreme Court has consistently held that § 1983 was not intended to abrogate a State's Eleventh Amendment Immunity. *Kentucky v. Graham*, 473 U.S. 159, 169 n.17 (1985). Moreover, the Ninth Circuit has held that sovereign immunity is not waived as to claims brought under 42 U.S.C. §§ 1981, 1983 or 1985. *Pitman v. Oregon, Employment Department,* 509 F.3d 1065, 1071-72 (9th Cir. 2007); *Mitchell v. Los Angeles Cnty, Coll. Dist.,* 509 F.3d 198, 201 (9th Cir. 1988). Other courts have also held that states are immune from suit under the Eleventh Amendment from claims brought pursuant to 42 U.S.C. § 1982 and 1986. *See Ross v. State of Ala.,* 893 F. Supp. 1545 (M.D. Ala. 1995) (holding that "under § 1982, congress has not waived

Eleventh Amendment immunity, because it did not make its intention unmistakably clear in the language of the statue.); *Shaughnessy v. Hawaii,* 2010 WL 2573355, at *6 ("[C]ourts have consistently held, that the Eleventh Amendment bars §§ 1981, and 1982 suits against the states..."); *Ardalan v. McHugh* 2013 WL 6212710, at *13 (N.D. Cal. Nov. 27, 2013) (finding that plaintiff's claims for violation of §§ 1981, 1983, 1985 and 1986 were barred by the doctrine of sovereign immunity. *Cholla Ready Mix, Inc. v. Civish*, 382 F.3d 969, 973 (9th Cir. 2004); *see also Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 106 (1984)"([I]t is difficult to think of a greater intrusion on state sovereignty than when a federal court instructs state officials on how to conform their conduct to state law.")."

"Few courts have addressed the waiver issue presented in this case. However, at least one court has determined that there is no waiver of sovereign immunity for claims brought under Title II of the Civil Rights Act. *See Zhu v. Gonzales,* WL 1274767, at *5 (D.D.C. May 8, 2006). There are, however, certain well-established exceptions to the Eleventh Amendment. For example, if a State waves its immunity and consents to suit in federal court, the Eleventh Amendment does not bar the action. See e.g. *Clark v. Barnard* 108 U.S.436, 447 (1883). Moreover, the Eleventh Amendment is "necessary limited by the enforcement provision of §5 of the Fourteenth Amendment, "that is, by Congress' power "to enforce, by appropriate legislation, the substantive provisions of the Fourteenth Amendment." *Fitzpatrick v. Bitzer* 427 U.S. 456 (1976). As a result, when acting pursuant to §5 of the Fourteenth Amendment, Congress can abrogate the Eleventh Amendment without

the State's consent. *Atascadero State Hospital Et. Al. v. Scanlon* 437 U.S. 234.

Congress enacted Title 42 U.S.C. § 2000d by its power to enforce § 5 of the Fourteenth Amendment. Title 42 U.S.C. § 2000d-7 (2) states:

> "[i]n a suit against a state for a violation of a statute referred to in paragraph (1), remedies (including remedies both at law and equity) are available for such a violation to the same extent as such remedies are available for such a violation in suit against any public or private entity other than a State."

Title 18 U.S.C. §§1962-1968, Title 42 U.S.C. §§ 1981, 1982, 1983, 1985, 1986, 2000a, 2000d, as well as California Civil Code §§ 51 and 52 are remedies available to a Petitioner against any public or private entities. Congress has waived the Eleventh Amendment immunity against the States, and it made its intentions unmistakably clear in the language of Title 42 U.S.C. §2000d-7(2). The State of California is not immune to this suit in the district court. This is an important question of federal law that has not been but should be settled by this Court and was decided in conflict with relevant decisions of this Court.

FIRST CAUSE OF ACTION DUE PROCESS

"To impose liability against the defendant for its failure to act, a plaintiff must show: (1) he faced a substantial risk or serious harm; (2) the defendants were deliberately indifferent to that risk; and (3) the defendants' failure to act caused the harm suffered. See *Farmer v. Breen, Warden Et. Al.*, 511 U.S. at 847, *Castro v. County of Los Angeles,* 833 F. 3d 1060, 1073 (9th Cir. 2016).

The Fourteenth Amendment prohibits states from "deprivling] any person of life, liberty, or property, without due process of law." U.S. Const. amend. XIV, §

1. As relevant here, a procedural due process claim requires allegations of: (1) a protected property interest; (2) a deprivation of that interest by state action; and (3) inadequate process for the deprivation. See *Reed v. Goertz*, 598 U.S. 230, 236 (2023).

The Complaint alleges that Respondent is depriving Petitioner of his rights secured by the Due Process Clause of the Fourteenth Amendment. *See Appendix 74, 90-99.*

SECOND CAUSE OF ACTION TITLE 42 U.S.C. §1981

Section 1981 provides that "[a]ll persons shall have the same rights... to make and enforce contracts... as is enjoyed by white citizen." *42 USC. § 1981.* That section "protects the equal right of all persons within the United States to make and enforce contracts without respect to race *Dommini's, Pizza Inc. v. McDonald.* 546 U.S. 470 at 474.

To state a claim pursuant to §1981 make and enforce contract the same as white citizens under *Title 42 USC.§ 1981,* the complaint must allege: (1) a plaintiff is a member of a racial minority; (2) the defendants had an intent to discriminate on the basis of race or color; and (3) the discrimination concerned one or more of the activities enumerated in the statute, it, the making and enforcing of contracts. *Morris v. Office Max Inc.,* 89 F. 3d 411, 413 (7th Cir. 1996). Plaintiff must identify an "impaired contractual relationship" by showing that intentional racial discrimination prevented the creation of a contractual relationship. The Complaint alleged claims under §1981. *See Appendix 99-102.*

THIRD CAUSE OF ACTION TITLE 42 U.S.C. §1981

To state a claim on his right to the full and equal benefits of all laws and proceedings for the security of person and property as is enjoyed by white citizens. Plaintiff must allege: (1) Plaintiff is a member of a racial minority; (2) the defendant had an intent to discriminate on the basis of race and color; and (3) the discrimination concerned one or more of the activities enumerated in the statute in this case the full and equal benefit of all laws as is enjoyed by white citizens. *Morris v. OfficeMax Inc.*, 89 F. 3d 411,413 (9th Cir. 1996).

The Complaint alleged a claim under 42 U.S.C. §1981. *See Third Cause of Action Appendix 189-199.*

FOURTH CAUSE OF ACTION TITLE 42 U.S.C. §1982

Plaintiff also alleged a claim under 42 U.S.C. §1982. That section provides that all citizens shall have the same right "to inherit, purchase, lease, sell, hold, and convey real and personal property" *Title 42 USC §1982.* To state a claim under *Title 42 USC §1982,* the complaint must allege that: (1) Plaintiff is a member of a racial minority; (2) he applied for and was qualified to rent or purchase certain property or housing; (3) was rejected; and (4) the housing or rental opportunity remained available after. *Phifer v. Proud Parrot Motor Hotel, Inc.* 648 F. 2d 548, 551 (9th Cir. 1980).

The Complaint alleged a claim for relief under 42 U.S.C. § 1982. *See Fourth Cause Appendix 199-201.*

FIFTH CAUSE OF ACTION TITLE 42 U.S.C. §1983

To state a claim under § 1983 a plaintiff must allege two essential elements: (1) that a right secured by the Constitution or laws of the United States was violated, and (2) that the alleged violation was committed by a person acting under the color of state law. *West v. Atkins*, 487 U.S. 42, 48 (1988). However, there is no *respondent superior* liability under § 1983. *See Hansen v. Black*, 885 F.2d 642, 646 (9th Cir. 1989); *Johnson v. Duffy*; 588 F.2d 740, 743-44 (9th Cir. 1978). Therefore, counties and municipalities may be sued under § 1983 only upon a showing that plaintiff's constitutional injury was caused by an employee acting pursuant to the municipality's policy or custom. *See Monell v. Dep't of Soc. Servs* 436 U.S. 658, 691 (1978).

To state a claim under *Monell*, a party must (1) identify the challenged policy or custom; (2) explain how the policy or custom is deficient; (3) explain how the policy or custom caused the plaintiff harm; and (4) reflect how the policy or custom amounted to deliberate indifference, i.e. show how the deficiency involved was obvious and the constitutional injury was likely to occur. *Young v. City of Visalia*, 687 F. Supp. 2d 1141, 1149 (E.D. Cal. 2009).

To (succeed on a *Monell* claim a plaintiff must establish that the entity "had a deliberate policy, custom, or practice that was the moving force behind the alleged constitutional violation he suffered") (internal quotation marks omitted)): *Brown v. Contra Costa County*, 2014 WL 1347680, at *8 (N.D. Apr. 3, 2014) ("Pursuant to the more stringent pleading requirements set forth in *Iqbal* and *Twombly*, a plaintiff suing a municipal entity must allege sufficient facts regarding the specific nature of

the alleged policy, custom or practice to allow the defendant to effectively defend itself, and these facts must plausibly suggest that plaintiff is entitled to relief.") (citing AE *ex rel. Hernandez v. County of Tulare*, 666 F.3d 631 (9th Cir. 2012)).

To state a cause of action under § 1983, the complaint must allege that the actions inflicting injury flowed from either an explicitly adopted or tactically authorized [government] policy. The custom must be so, "persistent, and widespread" that it constitutes a permanent and well settled City policy. *Monell* 436 U.S. at 691. Liability for improper custom may not be predicated on isolated or sporadic incidence; it must be found upon practices of sufficient duration, frequency and consistency that conduct has become a traditional method of carrying out policy. *Bennett v City of Slidell* 728 F.2d 762 (9th Cir. 1984); see also *Meehan v. Los Angeles County*, 856 F.2d 102 (9thCir.1988) (two incidents not sufficient to establish custom); *Davis v. Ellensburgh* 869 F.2d 1230 (9th Cir 1989) (manner of arrest insufficient to establish policy.)

A municipally is "deliberately indifferent" when the need for more or different action, "is so obvious and inadequacy [of the current procedure] is so likely to result in the violation of constitutional rights, that the policymakers... can reasonably be said to have been deliberately indifferent to the needs of plaintiff." *Young v. City of Visalia* 687 F. Supp 2d 1141, 1149 (ED. Cal 2009) quoting *City of Con* 489 U.S. at 390, 109 ct.

The Complaint alleged a cause of action under § 1983. *See Fifth Cause of Action Appendix 203-214.*

SIXTH CAUSE OF ACTION Title 42 U.S.C. §1985

The elements of a § 1985(3) claim are: (1) the existence of a conspiracy to deprive the plaintiff of the equal protection of the laws; (2) an act in furtherance of the conspiracy; and (3) a resulting injury. *Addisu v. Fred Meyer, Inc.* 198 F.3d 1130, 1141 (9th Cir. 2000) (citing *Scott v. Ross*, 140 F.3d 1275, 1284 (9th Cir. 1998)). The first element requires that there be some racial or otherwise class-based "invidious discriminatory animus" for the conspiracy. *Bray v. Alexandria Women's Health Clinic*, 506 U.S. 263 268-69 (1993); *Trerice v. Pedersen*, 769 F.2d 1398, 1402 (9th Cir. 1985). Moreover, a plaintiff cannot state a conspiracy claim under § 1985 in the absence of a claim for deprivation of rights under 42 U.S.C. § 1983. *See Caldeira v. Cnty. Of Kauai*, 866 F.2d 1175, 1182 (9th Cir. 1989) (holding that "the absence of a section 1983 deprivation of rights precludes a section 1985 conspiracy claim predicated on the same allegations"), *cert. denied*, 493 U.S. 817 (1989).

The Complaint alleged claims under Title 42 U.S.C. §1983 and §1985. *See Fifth and Sixth Cause of Action Appendix 203-214.*

SEVENTH CASUE OF ACTION TITLE 42 U.S.C. §1986

The Complaint alleged a claim under Title 42 U.S.C. §§1983, 1985 and 1986."Section 1986 imposes liability on every person who knows of an impending violation of section 1985 but neglects or refuses to prevent the violation." *Karim-Panahi v. Los Angeles Police Dept.,* 839 F. 2d 621, 626 (9th Cir. 1988). Absent a valid claim for relief under section 1985, there is no cause of action under § 1986. *Trerice v. Pedersen,* 769 F.2d 1398, 1403 (9th Cir. 1985).

The Complaint also alleged a claim pursuant to section 1986. *See Fifth, Sixth, and Seventh Cause of Action Appendix 203-221.*

EIGHTH CAUSE OF ACTION TITLE 42 U.S.C. §2000a

Plaintiff is entitled to recover under Title II of the *Civil Rights Act of 1964.* To prevail on his Title 42 U.S.C. §2000a claim, Plaintiff must show Defendants deprived Plaintiff of the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodation of any place of public accommodation on the grounds of his race and color. See *Daniel v. Paul* 395 U.S. 298 (1969); and *United States v. Sidell Youth Football Ass'n* 387 F. Supp 474 E.D. La. (1974). *And See App.*

The Complaint stated a claim under Title 42 U.S.C. § 2000a. *See Eighth Cause of Action Appendix 221-227.*

NINTH CAUSE OF ACTION TITLE 42 U.S.C.§2000d

"To prove Title VI discrimination a plaintiff must demonstrate that he was subjected to discrimination due to "race, color, or national origin" by a program or activity receiving Federal financial assistance." 42 U.S.C. §2000d. "Private parties seeking judicial enforcement of Title VI's nondiscrimination protection must prove intentional discrimination. *Alexander v. Sandoval* 532 U.S. 275, 280-81 (2001). In other words, "Title VI... proscribe[s] only those racial classifications that would violate the Equal Protection Clause of the Fifth Amendment." *Grutter v. Bollinger* 539 U.S. 306, 343 (2003) quoting *Regents of University of Calv. Bakke* 438 U.S. 265,287 (1978) (opinions of Powell, J.) At the trial stage, "the ultimate factual issue in the case is "whether the defendant intentionally discriminate against plaintiff." *U.S. Postal Serv. Bd. Of Governors v.*

*Aikens,* 460 U.S. 711, 715 (1983) (citation omitted). The finder of fact should "consider all the evidence," *id* at 714 n. 3 and look to the "totality of relevant facts," to determine whether the defendant has engaged in intentional discrimination. See *Washington v. Davis*, 426 U.S. 229, 242 (1976)" *Yu v. Idaho State University* 15 F. 4th 1236 (2021) 9th Circuit No. 20-35582.

Petitioner states claims in the Ninth cause of action that alleged a cause of action under Title 42 U.S.C. §2000d. *See Appendix 120-122.*

TENTH CAUSE OF ACTION CAL. CIV. CODE §51

To prevail on the Cal. Civil Code §51 claims, Plaintiff must show: (1) that he was denied equal treatment or was otherwise discriminated against by the defendant; (2) that the motivating reason for the discrimination was race, color; (3) that Plaintiff was harmed, and (4) that the conduct of the business establishments was a substantial factor in causing that harm. The Complaint stated a claim under Cal. Civ. Code §51. See *CACI No. 3060. Unruh Civil Rights Act Essential. Also, see Appendix 122-125.*

ELEVENTH CASUE OF ACTION CAL. CIV. CODE §52

Cal. Civil Code §52.1, the Tom Bane Civil Rights Act, authorizes suit against any person who by threats; intimidation; or coercion interferes with the exercise or enjoyment of rights secured by the Constitution and laws Untied States and the State of California without regard to whether the victim is a member of a protected class. (Civ. Code §52) to obtain relief under §52.1, Plaintiff does not need to allege that Defendants acted with discriminatory animus or intent; liability only requires

interference, attempted interference, with Plaintiffs legal rights by the requisite threats, intimidation, or coercion. *(Venegas v. County of Los Angeles* (2004) 32 Cal. 4d 820-841-843.) *See Eleventh Cause of Action Appendix 239-241.*

TWELFTH CAUSE OF ACTION TITLE 18 U.S.C. §1962

To recover under §1962(c) a plaintiff must prove (1) conduct, (2) of an enterprise, (3) through a pattern, (4) of racketeering activity (known as "predicate acts") (5) causing injury to the plaintiff's business or property by the conduct constituting the violation. See *Living Designs Inc. v. E.I. Dupont de Nemours & Co.*, 430 F. 3d 353, 361 (9th Cir 2005) (quoting *Grimmett v. Brown* 76 F.3d 506, 510 (9th Cir 1996).

The complaint alleged; (1) conduct, (2) of the State, (3) through a pattern, (4) of racketeering activity, (5) causing injury to Petitioner. *See Appendix 15, 125-126.*

THIRTEENTH CAUSE OF ACTION TITLE 18 U.S.C. §1962

A plaintiff may bring a private civil action for violations of racketeering and corrupt organizations ate (RICO). See 8 U.S.C. §1964(c ). RICO statutes prohibits four types of activities: (1) investing, (2) acquiring or (3) conducting or participating in an enterprise with income derived from a pattern of racketeering activity or collection of an unlawful debt, or (4) conspiring to commit any of the first three types of activity. Title 18 U.S.C. §1962(a)-(d).

RICO was "intended to combat organized crime, not to provide a federal cause of action and treble damages to every tort. *Oscar v. Univ. Student Co-Op Ass'n* 955 F. 2d 783, 786 (9th Cir 1992), (a)brogated on other grounds by *Diaz v. Gates* 420 F. 3d 897 (9th Cir 2005). However, the statute is to be liberally construed to effectuate

their remedial purpose *Odom v. Microsoft Corp.,* 486 F. 3d 541, 546 (9th Cir 2007). *See Appendix 15, 126-128..*

The complaint alleged that "all times relevant hereto, beginning on December 15, 1993 and continuing until present, the State and the conspirators received proceeds, and elected office derived from the pattern of racketeering activities to use or invest a part of such proceeds, and the proceeds derived from their investment or used thereof, in the acquisition of political offices; right, interest and equity in, real property; and in the establishment or operation and campaigns and other enterprise, in violation of Title 18 U.S.C. §1962(b)". See Appendix 141-144.

PUNITIVE DAMAGES

Punitive damages are permissible under California law when there is "clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice." Cal. Civ. Code § 3294(a). As relevant here, "malice" means "despicable conduct which is carried on by the defendant with a willful and conscious disregard of the rights or safety of others." § 3294(c)(1).

That definition of malice requires that we examine what constitutes "despicable conduct" and "conscious disregard." "Despicable conduct" is conduct "so vile, base, contemptible, miserable, wretched or loathsome that it would be looked down upon and despised by most ordinary decent people." *Pac. Gas & Elec. Co. v. Super. Ct.,* 235 Cal. Rptr. 3d 228, 236 (*Ct. App. 2018*) (internal quotation marks and citation omitted)... "Conscious disregard" requires that the defendant "have actual knowledge of the risk of harm it is creating and, in the face of that knowledge, fail

likelihood of success on the merits. *Disney Enters., Inc. v. VidAngel, Inc., 869 F.3d 848, 856 (9th Cir. 2017).* When, like here, the nonmovant is the government, the last two *Winter* factors "merge." *Nken v. Holder, 556 U.S. 418, 435 (2009); Roman v. Wolf, 977 F.3d 935, 940–41 (9th Cir. 2020) (per curiam).*

Petitioner requested the district court to enter Temporary Restraining Order (TRO) in his favor enjoining Respondent, her municipalities, attorney, and all persons working in concert with Respondent until the end of the trial in this action from engaging in, committing, or performing directly or indirectly, any and all of the following acts set out below:

(1) intimidating and retaliating against him; (2) searching, detaining, or harassing him; (3) withholding and interfering with his real and personal property; (4) refusing to enter judgments in his favor; (5) maintaining false criminal records on him; (6) interfering with Plaintiff's liquor license for his business; (7) withholding Plaintiff's handgun; (8) using government entities and public monies to break the laws of the United States; (9) implementing a general policy and conspiracy to discriminate against African Americans; and (10) that the State of California enjoined from allowing Little League Baseball, Inc. to hold any games, tournaments, practices, or conditioning sessions in the State of California, until the State can assure Plaintiff and other African Americans that LLBB will not violate the Constitution and laws of the United States.

The Motion was made on the grounds that: (1) Plaintiff is likely to succeed on the merits of his claims; (2) Plaintiff will suffer irreparable harm absent the

preliminary injunction; (3) The balance of equity tips in Plaintiff's favor; and (4) Preliminary injunction is in the public's interest. *See appendix 146-148*

Evidence set out in the Petition shows the appeal has merit because: Petitioner did comply with the pre-filing order; Petitioner is not a vexatious litigant; the State is not immune from this lawsuit; the claims alleged in the complaint are meritorious; and Petitioner is entitled to injunctive relief.

## THIS CASE IS OF GENERAL PUBLIC IMPORTANCE

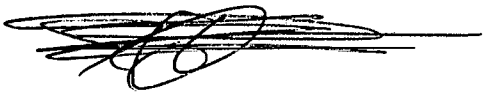
This case is of general public importance because the evidence presented above shows the State is violating Petitioners' and other African Americans of their rights secured by the Fourteenth Amendment. It is always in the public's interest to prevent the violation of a party's constitutional rights. *See Baird v. Bonta Supra.* This Court should reverse the decision of the court of appeals.

## CONCLUSION

This Court should grant Petitioners' request for the for a Writ of Certiorari.

Respectfully Submitted,

Date: November 7, 2025



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