No. 18-

In the Supreme Court of the United States

DON HAMRICK, *pro se*
322 ROUSE STREET
KENSETT, AR 72082
v.

JUDGE MARK DERRICK (recused)
JUDGE MILAS HALE
PROSECUTOR DON RANEY
KENSETT DISTRICT COURT
KENSETT, AR 72082

On Petition for a Writ of Certiorari to the
U.S. Court of Appeals for the 8th Circuit

RE: EIGHTH CIRCUIT NO. 18-1053 DEMAND FOR WRIT OF ERROR CORAM NOBIS TO THE U.S. DISTRICT COURT, LITTLE ROCK UNDER 28 U.S. CODE § 2201(A) CREATION OF REMEDY AND 28 U.S. CODE § 2202 - FURTHER RELIEF

RE: U.S. DISTRICT COURT, EASTERN DISTRICT OF ARKANSAS, NO. 4:17 MC-00018-JM

RE: KENSETT DISTRICT COURT, CASE NO. RPS #17-00012

PETITION FOR WRIT OF CERTIORARI

For Plain Error Review And For A Writ Of Error Coram Nobis Because of Unconstitutional Conditions For The Second Amendment (S.Ct. No. 03-145) And For My False Conviction Case As A Factually Innocent Defendant

---

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Kensett, AR 72082
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QUESTIONS PRESENTED

(1). Is a FALSE CONVICTION case of a factually innocent defendant a good cause for merit to have expedited review at the U.S. SUPREME COURT? *See 28 U.S. CODE § 1657(a) PRIORITY OF CIVIL ACTIONS.*

(2). Do family-based, live-in caregivers of their own parents have constitutional protection under the PRIVILEGES AND IMMUNITIES CLAUSE in the U.S. CONSTITUTION and 42 U.S. CODE § 11201(8) FINDINGS (the responsibility for care of individuals with Alzheimer's disease and related dementias falls primarily on their families, and the care is financially and emotionally devastating). *See SUBSECTION A & B in INTRODUCTION, and all Subsections in the STATEMENT.*

(3). Does a Motion to a U.S. District Court for a *STAY OF STATE COURT PROCEEDINGS* (28 U.S. Code § 2283) to prevent a malicious prosecution leading to a False Conviction of a factually innocent defendant in a small town court qualify as an exception to the Anti-Injunction Act (28 U.S. Code § 2283) because a *STAY OF STATE COURT PROCEEDINGS* in aid of the federal court's jurisdiction as to constitutional rights of a factually innocent defendant in a small town court at risk of a false conviction? *See specifically SUBSECTION I in the STATEMENT. And see generally all SUBSECTIONS in the STATEMENT.*

(4). Can I demand a Plain Error Review and a Writ of Error Coram Nobis of my judicially biased denial of my Second Amendment case with opposing opinions from two U.S. Courts of Appeals on whether the Second Amendment is or is not an individual right (S.Ct. No. 03-145) on the basis of Unconstitutional Conditions and for my FALSE CONVICTION CASE as a factually innocent defendant? See all of my PETITION FOR WRIT OF CERTIORARI. *See specifically SUBSECTION B., C., & D, in the INTRODUCTION, and my REASONS FOR GRANTING THE PETITION.*

(5). Does the serial denials of my several Second Amendment cases for National Open Carry in the federal courts, including S.Ct. No. 03-145, and the denial of my Motion for *STAY OF STATE COURT PROCEEDINGS* (Question (3)) effectively imply that I have no enforceable rights in the federal courts? Implying that I am effectively a slave in violation of the Thirteen and Fourteenth Amendments? *See SUBSECTION B., C., & D, in the INTRODUCTION, and my REASONS FOR GRANTING THE PETITION. See also* APPENDIX 3 UNCONSTITUTIONAL CONDITIONS.

(6). Does the combination of the SECOND AMENDMENT, the COMMON DEFENCE clause, and the Privileges and Immunities clause protect the right to unlicensed National Open Carry? And will that protected right assist in mitigating the Unconstitutional Conditions currently imposed on the people of the United States today?

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1. PARTIES

1. PLAINTIFF:

Don Hamrick, 322 Rouse Street, Kensett Arkansas, 72082 (*Falsely charged and falsely convicted for an offense I did not commit. I proved my innocence at trial. The post-recusal judge Milas Hale dismissed the original offense but then instantly blindsided me by convicting me of a lesser offense at the last second before adjournment without a continuance to prepare for that lessor offense. That, by definition, is a kangaroo court.*)

2. DEFENDANTS:

Judge Milas Hale, **Judge Mark Derrick** (*recused for judicial bias*), and **Prosecutor Don Raney**, are all members of the Kensett District Court, 101 NE First Street, Kensett, AR 72082.

2. JURISDICTION

This case arises under the First, Second, Sixth, Thirteenth, Fourteenth, Ninth, and Tenth Amendments to the Constitution of the United States and under the federal laws and case laws listed below.

AS TO MY FALSE CONVICTION CASE

The case to be reviewed is my 8th Circuit *APPEAL FOR PLAIN ERROR REVIEW AND WRIT OF ERROR CORAM NOBIS* of *Hamrick* v. *Derrick*, 8th Circuit No. 18-1053, both the denial of the appeal to the 8th Circuit and the motion for rehearing at the 8th Circuit, last Docket Entry March 22, 2018 Re: *U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF ARKANSAS*, Little Rock, No. 4:17-mc-00018-JM filed under Rule 11 of the Rules of the U.S. Supreme Court. See Docket Sheet from the 8th Circuit (Appendix 6):

January 17, 2018	8th Circuit Judgment: Case Summarily Affirmed.
January 25, 2017	Petition for Rehearing by Panel filed.
March 7, 2018	Subsequent 8 Addendums filed from January 27 to March 7.
March 15, 2018	8th Circuit Denied Petition for Rehearing.

AS TO MY SECOND AMENDMENT CASE (S.Ct. No. 03-145): See, Introduction & Reasons for Granting the Petition

A. U.S. CODE

28 U.S. CODE § 1251 ORIGINAL JURISDICTION (a) The Supreme Court shall have original and exclusive jurisdiction of all controversies between two or more States. & (b)(2) The Supreme Court shall have original but not exclusive jurisdiction of: All controversies between the United States and a State.

28 U.S. CODE § 1657 PR7IORITY OF CIVIL ACTIONS (Notwithstanding any other provision of law, each court of the United States shall determine the order in which civil actions are heard and determined, except that the court shall expedite the consideration of any action brought under . . . or any other action if good cause therefor is shown. For purposes of this subsection, "good cause" is shown if a right under the Constitution of the United States or a Federal Statute . . . would be maintained in a factual context that indicates that a request for expedited consideration has merit.

42 U.S. CODE § 1981 EQUAL RIGHTS UNDER THE LAW: (a) **STATEMENT OF EQUAL RIGHTS** (All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other. & (c) **PROTECTION AGAINST IMPAIRMENT**: (The rights protected by this section are protected against impairment by nongovernmental discrimination and impairment under color of State law.))

42 U.S. CODE § 1983 CIVIL ACTION FOR DEPRIVATION OF RIGHTS (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. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.)

42 U.S. CODE § 1985 - CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS ((3) **DEPRIVING PERSONS OF RIGHTS OR PRIVILEGES**: If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal

privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; . . . , the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.)

42 U.S. Code § 1986 Action for Neglect to Prevent (Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; and if the death of any party be caused by any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefor, and may recover not exceeding $5,000 damages therein, for the benefit of the widow of the deceased, if there be one, and if there be no widow, then for the benefit of the next of kin of the deceased. But no action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued.)

42 U.S. Code § 1988 Proceedings in Vindication of Civil Rights: ((a) **Applicability of statutory and common law:** The jurisdiction in civil and criminal matters conferred on the district courts by the provisions of titles 13, 24, and 70 of the Revised Statutes for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, **the common law**, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of such civil or criminal cause is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern the said courts in the trial and disposition of the cause, and, if it is of a criminal nature, in the infliction of punishment on the party found guilty.)

Future Criminal Action Against Named & Unnamed Respondents

18 U.S. Code § 241 - Conspiracy Against Rights

18 U.S. Code § 242 - Deprivation of Rights Under Color of Law

B. CASE LAW

Cohens v. *Virginia*, 19 U.S. 264, at 404 (6 Wheaton 264) (1821) "It is most true that this Court will not take jurisdiction if it should not; but it is equally true that it must take jurisdiction if it should. The judiciary cannot, as the legislature may, avoid a measure because it approaches the confines of the Constitution. We cannot pass it by because it is doubtful. With whatever doubts, with whatever difficulties, a case may be attended, we must decide it if it be brought before us. We have no more right to decline the exercise of jurisdiction which is given than to usurp that which is not given. The one or the other would be treason to the Constitution. Questions may occur which we would gladly avoid, but we cannot avoid them. All we can do is to exercise our best judgment and conscientiously to perform our duty. In doing this on the present occasion, we find this tribunal invested with appellate jurisdiction in all cases arising under the Constitution and laws of the United States. We find no exception to this grant, and we cannot insert one."

Duncan v. *Missouri*, 152 U.S. 377, 382 (1894) "[T]he privileges and immunities of citizens of the United States protected by the fourteenth amendment are privileges and immunities arising out of the nature and essential character of the federal government, and granted or secured by the constitution; and due process of law and the equal protection of the laws are secured if the laws operate on all alike, and do not subject the individual to an arbitrary exercise of the powers of government; . . ."

Wilson v. *State*, 33 Arkansas, 557, 560 (1878) (*striking a ban on unconcealed carry*). "If cowardly and dishonorable men sometimes shoot unarmed men with army pistols or guns, the evil must be prevented by the penitentiary and gallows, and not by a general deprivation of a constitutional privilege."

Miller v. United States, 230 F.2d 486, at 489 (1956). "The claim and exercise of a constitutional right cannot thus be converted into a crime."

(C). NOTIFICATIONS.

RULE 29.4(b) In any proceeding in this Court in which the constitutionality of an Act of Congress is drawn into question, and neither the United States nor any federal department, office, agency, officer, or employee is a party, the initial document filed in this Court shall recite that 28 U. S. C. § 2403(a) may apply and shall be served on the:

Solicitor General of the United States,
Room 5616,
Department of Justice,
950 Pennsylvania Ave., N. W.,
Washington, DC 20530-0001.

In such a proceeding from any court of the United States, as defined by 28 U. S. C. § 451, the initial document also shall state whether that court, pursuant to 28 U. S. C. § 2403(a), certified to the Attorney General the fact that the constitutionality of an Act of Congress was drawn into question. See Rule 14.1(e)(v).

RULE 29.4(c) In any proceeding in this Court in which the constitutionality of any statute of a State is drawn into question, and neither the State nor any agency, officer, or employee thereof is a party, the initial document filed in this Court shall recite that 28 U. S. C. § 2403(b) may apply and shall be served on the Attorney General of that State:

Leslie Rutledge
Arkansas Attorney General
323 Center Street, Suite 200
Little Rock, AR 72201
Email: oag@arkansasag.gov

In such a proceeding from any court of the United States, as defined by 28 U. S. C. § 451, the initial document also shall state whether that court, pursuant to 28 U. S. C. § 2403(b),[1] certified to the State Attorney General the fact that the constitutionality of a statute of that State was drawn into question. See Rule 14.1(e)(v).

Notifications required by Rule 29.4(b) AND (c) have been made.

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[1] 28 U. S. C. § 2403(b) In any action, suit, or proceeding in a court of the United States to which a State or any agency, officer, or employee thereof is not a party, wherein the constitutionality of any statute of that State affecting the public interest is drawn in question, the court shall certify such fact to the attorney general of the State, and shall permit the State to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for argument on the question of constitutionality. The State shall, subject to the applicable provisions of law, have all the rights of a party and be subject to all liabilities of a party as to court costs to the extent necessary for a proper presentation of the facts and law relating to the question of constitutionality.

3. OPINIONS BELOW

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

DON HAMRICK, pro se **PLAINTIFF**

v. **4:17MC00018-JM**

JUDGE MARK DERRICK (Recused)

case assigned to a Special Judge

Kenset District Court **DEFENDANT**

ORDER

Plaintiff , Don Hamrick filed this action as a miscellaneous case[1] asking the Court to dismiss his state court criminal prosecution, the state court's no contact order and to expunge his record.

Plaintiff's claims challenging the pending state criminal proceedings are **barred under the abstention doctrine articulated in *Younger v. Harris*, 401 U.S. 37, 59 (1971)**. **The *Younger* doctrine provides that federal courts should abstain from hearing cases when there is an ongoing state judicial proceeding that implicates important state interests, and when that proceeding affords an adequate opportunity to raise the federal questions presented**. *See Norwood v. Dickey*, 409 F.3d 901, 903 (8th Cir. 2005). **Because Plaintiff's state criminal case is still pending, "a federal court must not, save in exceptional and extremely limited circumstances, intervene by way of either injunction or declaration in an existing state criminal prosecution." *Younger*, 401 U.S. at 56**. **Accordingly, Plaintiff's claims relating to the validity of his pending criminal charges fail to state cognizable claim**.

IT IS, THEREFORE, ORDERED that plaintiff's complaint against the defendant is DISMISSED for failure to state a claim.

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[1]**This action would have been more appropriately filed as a civil action.**

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No: 18-1053

Don Hamrick
Plaintiff - Appellant

v.

Mark Derrick, Judge
Defendant – Appellee

Appeal from U.S. District Court for the Eastern District of Arkansas - Little Rock (4:17-mc-00018-JM)

JUDGMENT

Before WOLLMAN, LOKEN and COLLOTON, Circuit Judges.

This court has reviewed the original file of the United States District Court. It is ordered by the court that the judgment of the district court is summarily affirmed. See Eighth Circuit Rule 47A(a).

The motion for court order or subpoena is denied as moot.

January 17, 2018

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No: 18-1053

Don Hamrick

Appellant

v.

Mark Derrick, Judge

Appellee

Appeal from U.S. District Court for the Eastern District of Arkansas
- Little Rock (4:17-mc-00018-JM)

ORDER

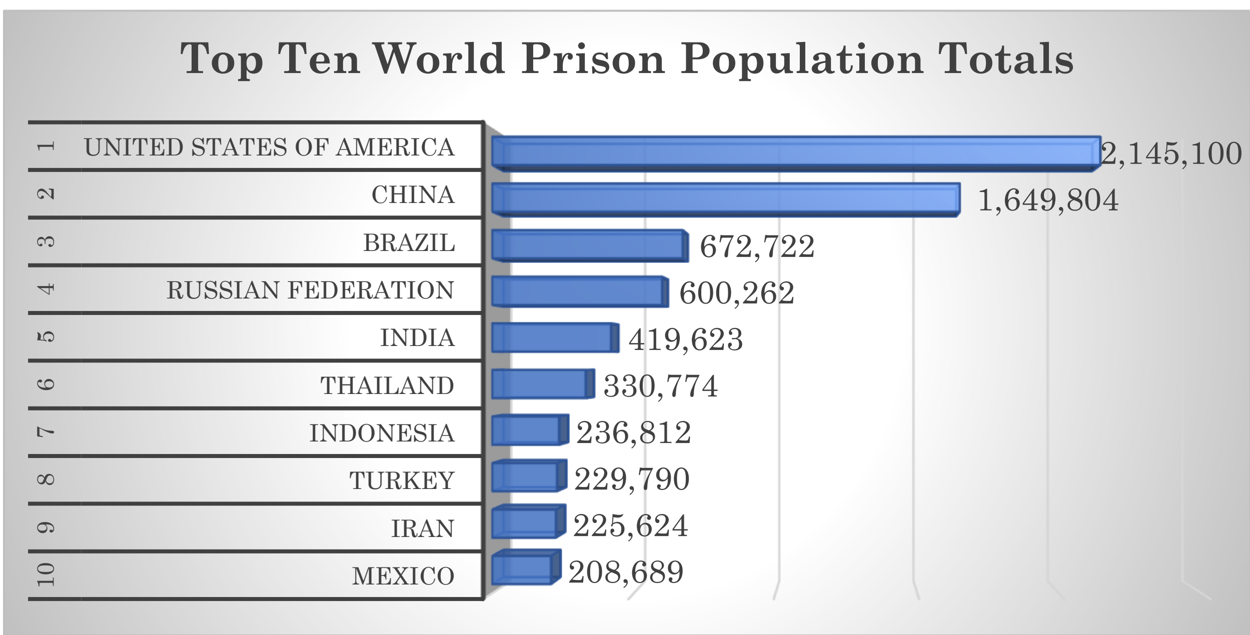
The petition for rehearing by the panel is denied.

March 15, 2018

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

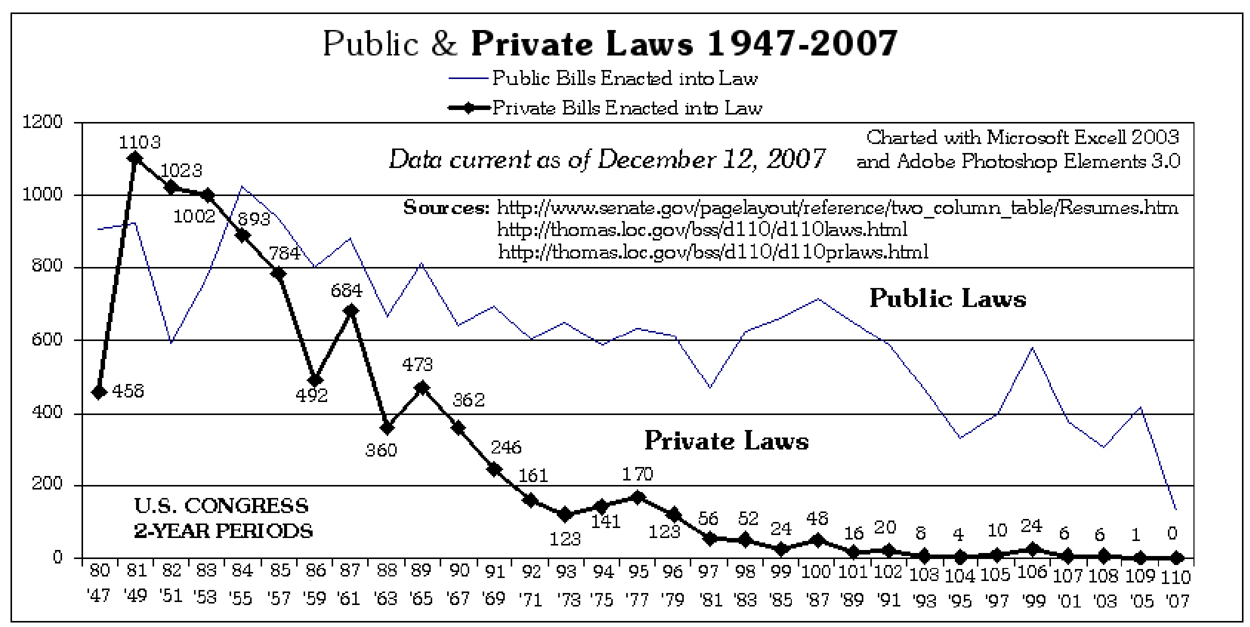
4. INTRODUCTION



SOURCE: World Prison Brief, Institute for Criminal Policy Research, and Birkbeck University of London. Available online at:

http://www.prisonstudies.org/highest-to-lowest/prison-population-total?field_region_taxonomy_tid=All

SUPPRESSING PRIVATE LAWS THAT PROVIDE A REMEDY



I AM FACTUALLY INNOCENT!

There is NO credible evidence against me. I proved my innocence to the charge of Domestic Battery in the 3rd Degree (Arkansas). But the judge blindsided me by immediately convicting me for Battery (AGAIN, I AM INNOCENT!). He adjourned the court before I could object.

Not even the arresting officer's arrest video is admissible evidence because it proves my innocence in the first 9 seconds of the video.

I STAND BY MY DECLARATION OF INNOCENCE:
NULLA POENA SINE LEGE!

QUOTATIONS

Latin Quotation: *Certa res oportet in judicium deducatur*. "A certain matter is necessary sometimes to be brought into court for trial."

William Blackstone quotation: "*It is better that ten guilty persons escape than that one innocent suffer*."

Petitioner Don Hamrick's Observation From His Own False Conviction: "*Convict all that no guilty persons escape, even if innocent people get falsely convicted. Conviction done! Job done!"* (An innocent cynic's frustrated attitude.)

A. THE NATIONAL PROBLEM OF FALSE CONVICTIONS

Citing *THE PROBLEM OF INNOCENCE IS WORSE THAN WAS THOUGHT*, Source: Death Penalty Information Center, STUDIES:[2]

> On April 28, 2014 a study published in the prestigous ***PROCEEDINGS OF THE NATIONAL ACADEMY OF SCIENCES*** indicated that far more innocent people have been sentenced to death than those found through the legal process. According to the study, many innocent defendants are probably not being identified because they were taken off death row and given a lesser sentence. The rate of exonerations for those sentenced to death would be over twice as high if all cases were given the heightened scrutiny often accorded to those who remain on death row. The authors

[2] https://deathpenaltyinfo.org/node/5757

of "*THE RATE OF FALSE CONVICTION OF CRIMINAL DEFENDANTS WHO ARE SENTENCED TO DEATH*"[3] concluded:

> "[A] conservative estimate of the proportion of erroneous convictions of defendants sentenced to death in the United States from 1973 through 2004 [is] 4.1%." The percentage of death row inmates who were actually exonerated during the time of the study was only 1.6%. Professor Samuel Gross (pictured) of the University of Michigan Law School, one of the authors of the study, pointed to the gravity of the problem: "Since 1973, nearly 8,500 defendants have been sentenced to death in the United States, and 138 of them have been exonerated. Our study means that more than 200 additional innocent defendants have been sentenced to death in that period. Most of these undiscovered innocent capital defendants have been resentenced to life in prison, and then forgotten."

Citing (2017) Samuel R. Gross, ***WHAT WE THINK, WHAT WE KNOW AND WHAT WE THINK WE KNOW ABOUT FALSE CONVICTIONS***,[4] University of Michigan Law School, U of Michigan Public Law Research Paper No. 537 (February 21, 2017; Last revised: June 3, 2017); Ohio State Journal of Criminal Law, Vol. 14, No. 2, 2017 (Forthcoming).

> ABSTRACT: False convictions are notoriously difficult to study because they can neither be observed when they occur nor identified after the fact by any plausible research strategy. Our best shot is to collect data on those that come to light in legal proceedings that result in the exoneration of the convicted defendants. In May 2012, the National Registry of Exonerations released its first report, covering 873 exonerations from January 1989 through February 2012. By October 15, 2016, we had added 1,027 cases: 599 exonerations since March 1, 2012, and 428 that had already happened when we issued our initial report but were not known to us. In this paper I discuss what can and cannot be learned from the exonerations that we have collected. The cases we find and list are not a complete set of all exonerations that occur—not nearly—but it's clear from the patterns we see in known exonerations that false convictions outnumber exonerations by orders of magnitude.

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[3] Samuel R. Gross, et al., "The Rate of False Conviction of Criminal Defendants Who are Sentenced to Death," Proceedings of the National Academy of Sciences, April 28, 2014; DPIC Press Release, "National Academy of Sciences Study Points To High Rate of Innocence on Death Row," April 28, 2014. Available online at www.pnas.org/content/111/20/7230.full.pdf

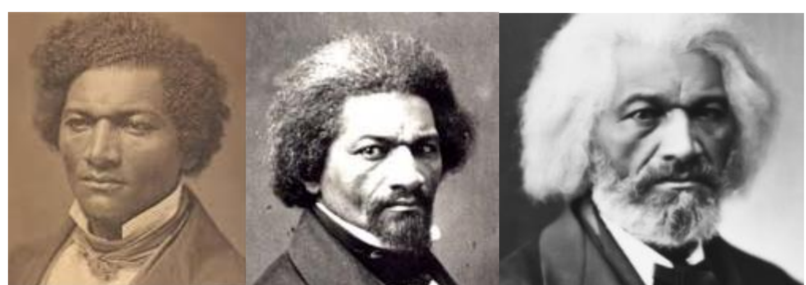
[4] https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2921678

> We cannot estimate the rate of false convictions or their distribution across crime categories. We can confidently say, however, that they are not rare events—and other research has estimated the rate of false convictions among death sentences at 4.1%, which provides an anchor for estimates of the rate for other violent crimes. We know that several types of false or misleading evidence contribute to many erroneous convictions (eyewitness misidentifications, false confessions, bad forensic science, perjury and other lies), as does misbehavior by those who process criminal cases: misconduct by police and prosecutors; incompetence and laziness by defense attorneys. Beyond that, we cannot say how false convictions are produced. It's clear, however, from the relative prevalence of these factors that the process differs radically from one type of crime to another. Data from one local jurisdiction (Harris County, Texas) strongly suggest that across the country thousands if not tens of thousands of innocent defendants a year plead guilty to misdemeanors and low-level felonies in order to avoid prolonged pretrial detention. And our data clearly show that innocent African Americans are much more likely to be wrongfully convicted of crimes than innocent whites, in part because of higher criminal participation in the African American community and in part because of discrimination.

From the WORLD PRISON POPULATION TOTALS with the United States having the top spot for the most people in prison. Taking the national politics into account it is my logical, analytical assessment as a pragmatist that the reasons why the United States has the top position in world prison population totals is because of the "*get tough on crime*" attitude and the anti-Second Amendment prejudice from the left-wing liberals, progressives, the push for sanctuary cities and sanctuary states, open borders, and all the other factions pushing their ideological agendas that stand against our constitutional form of government. As for the prejudice against an openly armed society? Refusing to acknowledge that the combination of the SECOND AMENDMENT, the COMMON DEFENCE[5] CLAUSE in the PREAMBLE to the U.S. Constitution as part of the Bill of Rights the political left believe a gun-free society will bring us toward a more perfect Union. That's a delusional belief.

[5] Defence is the original spelling in the U.S. Constitution.

B. THE STATE OF UNCONSTITUTIONAL CONDITIONS



Frederick Douglass

"*Let me give you a word of the philosophy of reform. The whole history of the progress of human liberty shows that all concessions yet made to her august claims have been born of earnest struggle. The conflict has been exciting, agitating, all-absorbing, and for the time being, putting all other tumults to silence. It must do this or it does nothing.* ***If there is no struggle there is no progress****. Those who profess to favor freedom and yet deprecate agitation are men who want crops without plowing up the ground; they want rain without thunder and lightning. They want the ocean without the awful roar of its many waters.*

This struggle may be a moral one, or it may be a physical one, and it may be both moral and physical, but it must be a struggle. Power concedes nothing without a demand. It never did and it never will. Find out just what any people will quietly submit to and you have found out the exact measure of injustice and wrong which will be imposed upon them, and these will continue till they are resisted with either words or blows, or with both. The limits of tyrants are prescribed by the endurance of those whom they oppress."

> SOURCE: On August 3, 1857, Frederick Douglass delivered a "West India Emancipation" speech at Canandaigua, New York, on the twenty-third anniversary of the event. Most of the address was a history of British efforts toward emancipation as well as a reminder of the crucial role of the West Indian slaves in that own freedom struggle. However shortly after he began Douglass sounded a foretelling of the coming Civil War when he uttered two paragraphs that became the most quoted sentences of all of his public orations. They began with the words, "*If there is no struggle, there is no progress*." The entire speech appears is published online at www.blackpast.org/1857-frederick-douglass-if-there-no-struggle-there-no-progress.

The present *PETITION FOR WRIT OF CERTIORARI* for a remedy for my False Conviction as a family-based, live-in caregiver to my own mother (age 85) and step-father (age 87, now deceased) and for my prejudicially denied *2003 PETITION FOR WRIT OF CERTIORARI for my SECOND AMENDMENT case for NATIONAL OPEN CARRY* when I had opposing opinions from two *U.S. COURTS OF APPEALS* on the same issue

whether the Second Amendment is an individual right or is not an individual right. I am demanding a review of that denial to compare the *SECOND AMENDMENT* with the *COMMON DEFENCE CLAUSE* and the *PRIVILEGES AND IMMUNITIES CLAUSE* of the *U.S. CONSTITUTION* for a finding that *NATIONAL OPEN CARRY* is a constitutional right supported by *42 U.S. CODE § 1981(a) & (c) EQUAL RIGHTS UNDER THE LAW* and whether the serial denials of my cases in the federal courts establishes a STATE OF UNCONSTITUTIONAL CONDITIONS preventing the citizens of the United States from exercising their constitutional rights to fullest extent authorized by the U.S. Constitution but prohibited by federal and state laws and judicial tyranny.

Of all the civil complaints I have filed in the federal courts as a *pro se* civil plaintiff, each and every complaint has been dismissed and/or denied. These dismissals and denials corroborates my allegation of judicial bias and prejudice against *pro se* civil plaintiffs with civil rights & constitutional rights cases. And for cause of the U.S. Supreme Court denying my 2003 Second Amendment case, No. 03-145 it is my opinion that the U.S. Supreme Court is a COURT OF POLITICS and not a COURT OF LAW. I suspect the U.S. Supreme Court will deny my CERTIORARI ON FALSE CONVICTIONS because I am again not represented by an attorney. And if my case does get denied the denial will be egregiously in violation of *28 U.S. CODE § 1654 APPEARANCE PERSONALLY OR BY COUNSEL*.

C. SECOND AMENDMENT, COMMON DEFENCE, AND PRIVILEGES & IMMUNITIES COMBINED FOR NATIONAL OPEN CARRY.

The Preamble to the U.S. Constitution:

> We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

I infer a difference in definitions between COMMON DEFENCE (*We, the People, militia, neighborhood watch programs, etc*.) and NATIONAL DEFENSE (*the military*). If the drafters of the U.S. Constitution implied a military defence for the Common Defence then they would have written in "*provide for the National Defence*." But because they wrote in "*provide for the Common Defence*" I interpret that to include an openly armed law abiding people in local, intrastate, and interstate travel, including our armed merchant marine to defend against pirates on the high seas (See Appendix 2) with the National Defense. "*A more perfect Union"*, in my opinion, is an openly armed society where a national code of ethical firearm ownership and carriage has developed a polite and safe society. But any step toward this ultimate goal is vehemently opposed by the pro-mass murder gun control factions. Yes! That is my logical, analytical assessment as a pragmatist with a pinch of sarcasm.

That is not the United States we have today. Ever since the NATIONAL FIREARMS ACT OF 1934[6] gun control laws exploded in numbers to the extent that the Second Amendment has been gutted from its original intent for an openly armed society that would have *provided for the Common Defence*. The only true deterrent from mass murders that has been suppressed since the NATIONAL FIREARMS ACT OF 1934 is an openly armed society. But an openly armed society is not the reality for the pro-mass murder gun control advocates.

This misguided belief that a disarmed society will provide a more perfect union is delusional. Why? The human race has not evolved into an egalitarianistic sentient species yet. The human race remains an animalistic, kill or be killed, predatory species even though we have high legal, judicial, moral, religious, and social codes of ethics and behavior. The majority of us adhere to these codes of ethics. But a significant portion of the human race has no regard for these code of ethics and behavior, hence the inherent need for common sense openly armed self-defense laws. The unarmed innocent are sitting ducks for the criminal element. See Appendixes 3, 4, & 5 for my views on common sense armed self-defense laws.

Figure 1. *My logo for my blog for the SECOND AMENDMENT right to keep and bear arms for the COMMON DEFENCE (NATIONAL OPEN CARRY).*

The Bill of Rights and the U.S. Constitution themselves are the Gold Standard that secure our rights, freedoms, liberties, privileges and immunities so that no innocent citizens are subjected to false arrest, false imprisonment, false/malicious prosecution, or FALSE CONVICTION.

[6] https://www.atf.gov/rules-and-regulations/national-firearms-act

D. PLAIN ERROR REVIEW OF MY SECOND AMENDMENT DENIAL, NO. 03–145

I. POINT: FED.R.CV.P. 8(a)(2) ABUSED AS AN ESCAPE CLAUSE TO AVOID CONSTITUTIONAL ISSUES BROUGHT FORWARD BY A PRO SE CIVIL PLAINTIFF (JUDICIAL BIAS).

Rule 8(a)(2) states:

"*A pleading that states a claim for relief must contain*:

(2) *a short and plain statement of the claim showing that the pleader is entitled to relief*;"

Judge John D. Bates of the U.S. District Court for the District of Columbia stated in his MEMORANDUM OPINION in *Hamrick* v. *United States*, U.S. District Court for the District of Columbia, No. 1:10-cv-00857-JDB (Docket No. 9, Filed May 7, 2011):

> On August 24, 2010, this Court **dismissed *pro se* plaintiff Don Hamrick's complaint for failure to comply with Fed. R. Civ. P. 8(a)(2).** *See Hamrick* v. *United States*, Civ. A. No. 10-857, 2010 WL 3324721, at *1 (D.D.C. Aug. 24, 2010). Hamrick's 350-page complaint, which asserted a variety of claims against "putative President Barack Obama," Chief Justice John Roberts and other government officials under the **Second Amendment** and the **Civil RICO Act, 18 U.S.C. § 1964**, was so "utterly confusing, and at times indecipherable" that the Court found *sua sponte* dismissal to be warranted. *Id.* ***In its Memorandum Opinion, the Court explained that Hamrick could file an amended complaint curing his initial complaint's deficiencies, but it warned that "[i]f Mr. Hamrick files an amended complaint that merely recycles the Complaint presently before the Court it may be dismissed with prejudice***." See id. (quoting *Hamrick* v. *United Nations*, Civ. A. No. 07-1616, 2007 WL 3054817, at *1 (D.D.C. Oct. 19, 2007)).[FOOTNOTE 1]
>
> [FOOTNOTE 1]:
>
> **Hamrick is no stranger to the courts**. Over the past nine years, he has filed at least ten separate lawsuits before various judges of this Court, all of which have been dismissed. See, e.g., *Hamrick* v. *Bush*, Civ. A. No. 02-1435, Order [Docket Entry 12] (D.D.C. Oct. 10, 2002), aff'd, 63 Fed. Appx. 518 (D.C. Cir. 2003); *Hamrick* v. *Brusseau*, Civ. A. No. 02-1434, Order [Docket Entry 17] (D.D.C. Jan. 24, 2003), **appeal dismissed**, No. 05-5414 (D.C. Cir. Dec. 27, 2005); *Hamrick* v. *Bush*, Civ. A. No. 03-2160, Order [Docket Entry 90] (D.D.C. Feb. 20, 2007); *Hamrick* v. *Gottlieb*, 416 F. Supp. 2d 1, 2 (D.D.C. 2005); *Hamrick* v. *United States*, Misc. No. 04-422, Order [Docket Entry 13] (D.D.C. Feb.

> 21, 2007); *Hamrick* v. *Hoffman*, 550 F. Supp. 2d 8, 17 (D.D.C. 2008). Three other judges of this Court have dismissed complaints filed by Hamrick *sua sponte* for failure to comply with Fed. R. Civ. P. 8(a)(2). See *Hamrick* v. *United States*, Civ. A. No. 08-1698, Mem. Op. [Docket Entry 15] (D.D.C. Jan. 30, 2009), appeal dismissed, No. 09-5102 (D.C. Cir. July 10, 2009); *Hamrick* v. *United Nations*, Civ. A. No. 07-1616, 2007 WL 3054817, at *1 (D.D.C. Oct. 19, 2007); *Hamrick* v. *Brewer*, Civ. A. No. 05-1993, Mem. Op. [Docket Entry 4] (D.D.C. Oct. 20, 2005), **appeal dismissed**, No. 05-5429 (D.C. Cir. May 18, 2006).

All of the cases Judge Bates cited are related to the SECOND AMENDMENT right to keep and bear arms in local, intrastate, and interstate travel, i.e., National Open Carry, under the protection of the COMMON DEFENCE CLAUSE and the PRIVILEGES AND IMMUNITIES CLAUSE of the U.S. CONSTITUTION.

Judge Bates' contention is argumentatively prejudiced against the Second Amendment based on what exactly is "*a short and plain statement of the claim showing that the pleader is entitled to relief*."

It is my characterization of the Second Amendment's original intent for right to keep and bear arms in local, intrastate, and interstate travel and for U.S. merchant seamen in global maritime travel as the *SECOND AMENDMENT'S GOLD STANDARD*. The state of Second Amendment rights under current gun control laws is demoted to be the Tarnished Tin Standard imposing *UNCONSTITUTIONAL CONDITIONS* upon the citizens of the several States.

A broad-based claim on the *SECOND AMENDMENT'S GOLD STANDARD'S* right to *NATIONAL OPEN CARRY,* the original intent of the Second Amendment under the *COMMON DEFENCE CLAUSE* and the *PRIVILEGES AND IMMUNITIES CLAUSE*, **requires a lengthy *claim showing that the pleader is entitled to relief***, especially when the Second Amendment is applied to the merchant marine in interstate travel between home and assigned U.S. merchant vessels in global travel aboard ship. There exists a neede for **common sense self-defense laws** (*COMMON DEFENCE AND PRIVILEGES AND IMMUNICTIES*) for local, state, and federals laws and maritime laws and the laws of nations (*EQUAL PROTECTION OF THE LAWS*) that a free people have their right to life protected by the Second Amendment's Gold Standard of common sense self-defense laws.

It is my allegation that Judge Bates used Rule 8(a) as an escape clause to avoid a Second Amendment for the rights of American citizens but also for U.S. merchant seamen because of its implied impact on domestic laws, maritime law and the laws of nations.

I had two U.S.Courts of Appeals with opposing opinions on whether the Second Amendment was or was not an individual right in my Petition for Writ of Certiorari to the U.S. Supreme Court, Case No. 03-145. The U.S. Supreme Court denied Certiorari, more like ignored my Certiorari. See 540 U.S. 940 (October 6, 2003).

Citing an excerpt from the INTRODUCTION in April Ramirez, *PLAIN ERROR REVIEW IS JUST PLAIN CONFUSING: HOW THE CONFUSED STATE OF PLAIN ERROR REVIEW LED THE SEVENTH CIRCUIT TO GET IT WRONG*, 12 Seventh Circuit Review 1 (2016)

> Plain error analysis is the type of appellate review applied when a party fails to object to an error at the moment it happens during trial.[7] Because of the interest in the finality of judgments, parties are encouraged to make timely objections.[8] To incentivize timely objections, Rule 30 of the Federal Rules of Criminal Procedure prescribes that a party loses its right to appeal an error if an objection to it is not contemporaneously made.[9] However, cases from the early twentieth century held that the public interest required that courts correct errors that harmed the integrity of the judicial system, even when such errors were not timely objected to.[10]
>
> In the last thirty years, the plain error doctrine has changed substantially both in principle and in form. Interpretations by the United States Supreme Court have vastly departed from its original articulation. Rather than serving as a protection for both the accused and the whole of society, its current rigidity provides restitution for only those lucky enough to be able to prove their innocence, with little regard for the public's faith in the fairness of our justice system. The principles in which plain error review is grounded must be revisited and the standard revised.

Citing the *CONCLUSION* in April Ramirez, *PLAIN ERROR REVIEW IS JUST PLAIN CONFUSING: HOW THE CONFUSED STATE OF PLAIN ERROR REVIEW LED THE SEVENTH CIRCUIT TO GET IT WRONG*, 12 Seventh Circuit Review 1 (2017):

> Plain error review was grounded in the principle that courts should correct errors that, if left unrectified, could undermine the integrity of

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[7] *United States* v. *Olano*, 507 U.S. 725, 731-32 (1993); *United States* v. *Frady*, 456 U.S. 152, 162-63 (1982).

[8] See Frady, 456 U.S. at 163.

[9] *Id*. at 162

[10] See *United States* v. *Atkinson*, 297 U.S. 157, 160 (1936); *New York C.R. Co*. v. *Johnson*, 279 U.S. 310, 318 (1929).

the judicial system.[11] The Atkinson plain error standard embodied this principle. The United States Supreme Court, however, has over time strayed from this original standard by focusing more narrowly on the outcome of a particular trial. The complexity and vagueness of the current doctrine has created confusion and inconsistency of decisions, including within the Seventh Circuit. The doctrine must be revised to look beyond any damage an uncorrected error may cause to a single individual. Instead, plain error analysis must also account for something greater—the public's faith in our judicial system.

II. COUNTER-POINT: FEDERAL RULE OF CIVIL PROCEDURE: RULE 8(E) PLEADINGS MUST BE CONSTRUED SO AS TO DO JUSTICE.

Case No. 03–145 Hamrick v. Bush, President of the United States, et al. C. A. D. C. Circuit Before Judgment was Unconstitutionally Denied for Political Reasons Against the Nature of My Appeal for National Open Carry Combining the Second Amendment with the Common Defence Clause and the Privileges and Immunities Clause of the U.S. Constitution.

I had opposing opinions from two U.S. Courts of Appeals on whether the Second Amendment was an individual right or was not an individual right. I was told by an employee of the U.S. Supreme Court that having two opposing opinions on the same issue would guarantee my Petition for Writ of Certiorari would be accepted. But my Petition got denied anyway, most obviously for political reasons. In my opinion the U.S. Supreme Court become a Court of Politics and not a Court of Law with that denial of Certiorari.

III. CASE LAWS VIOLATED: THE DENIAL OF MY CASE NO. 03–145 VIOLATED THE FOLLOWING CASE LAWS.

Davis v. Wechsler, 263 US 22, at 24 (1923) "The assertion of federal rights, when plainly and reasonably made, is not to be defeated under the name of local practice."

Miranda v. Arizona, 384 US 436, 491 (1966) "Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them."

Sherer v. Cullen, 481 F 946, "There can be no sanction or penalty imposed upon one because of this exercise of constitutional rights."

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[11] See *United States* v. *Atkinson*, 297 U.S. 157, 160 (1936); *New York C.R. Co*. v. *Johnson*, 279 U.S. 310, 318-19 (1929); *Brasfield* v. United States, 272 U.S. 448, 450 (1926).

Cohens v. *Virginia*, 19 U.S. 264, at 404 (6 Wheaton 264) (1821) "It is most true that this Court will not take jurisdiction if it should not; but it is equally true that it must take jurisdiction if it should. **The judiciary cannot, as the legislature may, avoid a measure because it approaches the confines of the Constitution. We cannot pass it by because it is doubtful. With whatever doubts, with whatever difficulties, a case may be attended, we must decide it if it be brought before us. We have no more right to decline the exercise of jurisdiction which is given than to usurp that which is not given. The one or the other would be treason to the Constitution. Questions may occur which we would gladly avoid, but we cannot avoid them. All we can do is to exercise our best judgment and conscientiously to perform our duty. In doing this on the present occasion, we find this tribunal invested with appellate jurisdiction in all cases arising under the Constitution and laws of the United States. We find no exception to this grant, and we cannot insert one.**"

Duncan v. *Missouri*, 152 U.S. 377, 38 2 (1894) "[T]he privileges and immunities of citizens of the United States protected by the fourteenth amendment are privileges and immunities arising out of the nature and essential character of the federal government, and granted or secured by the constitution; and due process of law and the equal protection of the laws are secured if the laws operate on all alike, and do not subject the individual to an arbitrary exercise of the powers of government; . . ."

Wilson v. *State*, 33 Arkansas, 557, 560 (1878) (*striking a ban on unconcealed carry*). "If cowardly and dishonorable men sometimes shoot unarmed men with army pistols or guns, the evil must be prevented by the penitentiary and gallows, and not by a general deprivation of a constitutional privilege."

Miller v. *United States,* 230 F.2d 486, at 489 (1956) "The claim and exercise of a constitutional right cannot thus be converted into a crime."

iv. THE PSYCHOLOGY OF JUDICIAL BIAS DISGUISED AS OPINIONS VIOLATING CONSTITUTIONAL RIGHTS (MY ALLEGATION)

In my layman's study of behavioral psychology I learned about 6 universal patterns of human behavior on social, political, legal and judicial arguments:[12]

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[12] See generally, Kari Edwards & Edward E. Smith, ***A Disconfirmation Bias in the Evaluation of Arguments***, 71 Journal of Personality and Social Psychology, Volume 71, No. 1, p. 5–24 (1996). www.unc.edu/~fbaum/teaching/articles/JSPS-1996-Edwards.pdf; Mason Richey, ***Motivated Reasoning in Political Information Processing: The Death Knell of Deliberative Democracy?*** Page 6, (May 5, 2011) (Mason Richey, Department of European Studies, GSIAS, Hankuk University of Foreign Studies, 270 Imun-dong, Dongdaemun-gu, 130-791 Seoul, South Korea.)

(1). **Prior Attitude Effect/Prior Belief Effect** (*people consider arguments consistent with their own judgments superior to countervailing ones*),

(2). **Disconfirmation Bias** (*people unduly counterargue and discount incongruent arguments, while uncritically accepting congruent arguments*),

(3). **Confirmation Bias** (*people seek out information that confirms beliefs*),

(4). **Attitude Polarization** (*attitudes become more extreme despite exposure to balanced pro and con arguments*),

(5). **Attitude Strength Effect** (*motivated skepticism increases with stronger policy attitudes*), and

(6). **Sophistication Effect/PETTIFOGGERY**[13] (*politically more knowledgeable people display greater motivated skepticism because their knowledge base allows greater counterarguing of incongruent information*). [***My Opinion***: *Including federal court and U.S. Supreme Court opinions denying more constitutional rights, freedoms, and liberties, as in judicial tyranny and government oppression*).

(7). **Belligerence** (i.e., Belligerence from a federal judge in opposition to constitutional rights defended by an unrepresented civil plaintiff and

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Available online at https://philpapers.org/archive/RICMRI.pdf; Charles S. Taber and Milton Lodge, ***Motivated Skepticism in the Evaluation of Political Beliefs***, American Journal of Political Science, Vol. 50, No. 3 (Jul., 2006), pp. 755-769, Published by Midwest Political Science Association. Available online at https://www.unc.edu/~fbaum/teaching/articles/AJPS-2006-Taber.pdf; Taber, C. and M. Lodge. 2000. ***Three Steps Toward a Theory of Motivated Reasoning***, in ***Elements of Reason: Cognition, Choice, and the Bounds of Rationality*** (Part of Cambridge Studies in Public Opinion and Political Psychology), London: Cambridge University Press. (December 2000), Paperback; ISBN: 9780521653329, Editors: Arthur Lupia, Mathew D. McCubbins, Samuel L. Popkin, Arthur T. Denzau, Douglass C. North, Paul M. Sniderman, Norman Frohlich, Joe Oppenheimer, Shanto Iyengar, Nicholas A. Valentino, Wendy M. Rahn, James H. Kuklinski, Paul J. Quirk, Milton Lodge, Charles Taber, Michael A. Dimock, Philip E. Tetlock, Mark Turner; Taber, C. and M. Lodge, ***Motivated Skepticism in the Evaluation of Political Beliefs***, American Journal of Political Science 50/3: (2006) pp. 755-769. See also, Russell J. Dalton and Hans-Dieter Klingemann (Editors), ***The Oxford Handbook of Political Behavior***, Oxford University Press, (Published date August 2007) (Published online September 2009).

[13] Pettifoggery. My addition for the argumentative nature of party politics, federal courts, and arguing in-laws.

a factually innocent defendant with a False Conviction case becomes Judicial Tyranny.[14] See Judge John D. Bates of the U.S. District Court for the District of Columbia MEMORANDUM OPINION in *Hamrick* v. *United States*, U.S. District Court for the District of Columbia, No. 1:10-cv-00857-JDB (Docket No. 9, Filed May 7, 2011), Section D.(i). (page 16 in this petition) [FOOTNOTE 1] stating: "*Hamrick is no stranger to the courts. Over the past nine years, he has filed at least ten separate lawsuits before various judges of this Court,* ***all of which have been dismissed***."[15]

All of the dismissed cases noted by Judge Bates were about *NATIONAL OPEN CARRY* from a U.S. merchant seaman's perspective under the clear reading of the *SECOND AMENDMENT, COMMON DEFENCE clause,* the *PRIVILEGES AND IMMUNITES clause*, and *42 U.S. CODE § 1981(a)EQUAL RIGHTS UNDER THE LAW—STATEMENT OF EQUAL RIGHTS*.

*My addition for the argumentative nature of party politics, federal courts, and arguing in-laws.

V. PUBLIC CORROBORATION FOR NATIONAL OPEN CARRY IN 2018

(a). On March 4, 2018, Cassandra Fairbanks of the Gateway Pundit posted her article about Virginia Delegate Nick Freitas speaking to the Virginia House of Delegates on the Second Amendment. Her article is titled, "***WATCH: SPEECH ON GUNS BY VIRGINIA SENATE CANDIDATE CAUSES DEMOCRAT WALK-OUT, GOES MASSIVELY VIRAL ONLINE***" (with 565 comments as of April 16).[16] See the identical YouTube video posted on March 5, 2018, by Oppressed Media with 609 comments titled, ***AMAZING 2ND AMENDMENT SPEECH BY GREEN BERET COMBAT VET CAUSES DEMOCRAT WALKOUT*** (54,641 views as of April 18, 2018; going viral at 110,282 view as of April 19, 2019).[17]

(b). **YOUTUBE*: TOP 5 2ND AMENDMENT BATTLES IN 2018***, by God, Family and Guns, January 18, 2018. National Reciprocity for Concealed Carry is No. 4. (*www.youtube.com/watch?v=WJBC_X_iAzo*).

(c). **YOUTUBE: *I AM THE MAJORITY!" FULL GUN RIGHTS SPEECH *MUST WATCH****, posted by Twang n Bang, April 6, 2018. On **April 3rd, 2018**, resident Mark Robinson gave an impassioned speech at the Greensboro, NC, city council meeting in support of the Second Amendment. This speech is the best

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[14] *Ib*. Footnote 13.

[15] My emphasis.

[16] www.thegatewaypundit.com/2018/03/watch-speech-guns-virginia-senate-candidate-causes-democrat-walk-goes-massively-viral-online/

[17] https://www.youtube.com/watch?v=-0S7L6sumy8

four minutes you'll ever watch about how important gun rights are to the majority of American citizens. (*www.youtube.com/watch?v=NIwf3d7hP9g*).

(d). **YouTube: FOX NEWS CHANNEL** (Ainsley Earhardt, Brian Kilmeade) — ***North Carolina Man Passionately Defends the Second Amendment***, posted by Tea Partiest, April 6, 2018. Gun advocate, Mark Robinson, says he is the majority and defends his constitutional right. (*www.youtube.com/watch?v=HxMki1UEDNc*).

(e). **YouTube: *Kurt Russell TAKES Whoopi Goldberg to SCHOOL on Gun Control***, posted by 50 Stars, January 2, 2018. Kurt Russell & Ted Nugent defends guns, & the View debates gun control. (*www.youtube.com/watch?v=uy0_IZ0MWts*).

(f). **YouTube: [Spokesman for the Government Relations of the National Shooting Sports Foundation (NSSF)]**[18] ***Destroys Liberal Judge on Gun Control***, posted by 50 Stars, January 25, 2018. (*www.youtube.com/watch?v=uy0_IZ0MWts*).

(g). **YouTube: *Ted Nugent Announces Emergency Plan To Stop Repeal of 2nd Amendment in 2018***, posted by The Alex Jones Channel, Feburary 26, 2018. (www.youtube.com/watch?v=ssUTb_uDYbc).

(h). **YouTube: *Mark Levin Show: Charlton Heston explains the fundamentals of the Second Amendment*** (02-22-2018), posted by Conservative Storage, February 23, 2018. Charlton Heston explained that the Second Amendment must be considered more essential than the First Amendment. The Second Amendment is the first freedom that defends the rest of our liberties. The Left seeks the destruction of not only the Second Amendment, but the whole of the Constitution. We're dealing with anti-constitutional radical ideologues. They don't care about the history of the Second Amendment any more than they care about the history of the First Amendment... (audio from 02-22-2018) (https://www.youtube.com/watch?v=giXWLCpejYI).

(i). **YouTube: *The 2nd Amendment Repeals Acts of 2018***, posted by Guns & Gadgets, Feburary 26, 2018. (www.youtube.com/watch?v=oYW-Dq9KUGc).

VI. See Appendix 4 For My Political Poems Slamming the U.S. Supreme Court for Their Duplicity, Their Mendacity, and Karkistocracy (*Government by the Worst People*).

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[18] www.nssf.org/government-relations/

VII. MY DEMAND FOR WRIT OF ERROR CORAM NOBIS OF HAMRICK V. BUSH, SUPREME COURT, CASE NO. 03-145 AS A RELATED CASE OF JUDICIAL ERROR

Judge James M. Moody of the U.S. District Court in Little Rock, Arkansas is the direct link between my present False Conviction appeal to the U.S. Supreme Court and my 2003 Second Amendment Appeal to the U.S. Supreme Court, Case No. 03-145 from the U.S. Court of Appeals for the DC Circuit. To guard against an encroaching state of judicial tyranny from serial dismissals and denials from federal courts and the U.S. Supreme Court

> *Cohens* v. *Virginia*, 19 U.S. 264, at 404 (6 Wheaton 264) (1821) "It is most true that this Court will not take jurisdiction if it should not; but it is equally true that it must take jurisdiction if it should. **The judiciary cannot, as the legislature may, avoid a measure because it approaches the confines of the Constitution. We cannot pass it by because it is doubtful. With whatever doubts, with whatever difficulties, a case may be attended, we must decide it if it be brought before us. We have no more right to decline the exercise of jurisdiction which is given than to usurp that which is not given. The one or the other would be treason to the Constitution. Questions may occur which we would gladly avoid, but we cannot avoid them. All we can do is to exercise our best judgment and conscientiously to perform our duty. In doing this on the present occasion, we find this tribunal invested with appellate jurisdiction in all cases arising under the Constitution and laws of the United States. We find no exception to this grant, and we cannot insert one**."

> *Duncan* v. *Missouri*, 152 U.S. 377, 382 (1894) **"[T]he privileges and immunities of citizens of the United States protected by the fourteenth amendment are privileges and immunities arising out of the nature and essential character of the federal government, and granted or secured by the constitution; and due process of law and the equal protection of the laws are secured if the laws operate on all alike, and do not subject the individual to an arbitrary exercise of the powers of government; . . .**"

8. STATEMENT

A. LIST OF (EXCULPATORY) MOTIONS I FILED WITH THE KENSETT DISTRICT COURT PROVING MY INNOCENCE

February 13, 2017 **DEFENDANT'S MOTION TO IMMEDIATELY DISMISS WITH PREJUDICE AND EXPUNGE MY RECORD: THE DOMESTIC BATTERY CHARGE OF JANUARY 18, 2017, AND THE COURT ORDER OF NO CONTACT**

THE INCIDENT CAUSING THE FALSE ARREST

My mother has periodic episodes of excessive anger directed specifically at me. See, *DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS* (DSM5). OPPOSITIONAL DEFIANT DISORDER, pp. 426–463 (Specifiers: It is not uncommon [My comment: *meaning – It is common. . .*] for individuals with *OPPOSITIONAL DEFIANT DISORDER* to show symptoms only at home and only with family members. However, the pervasiveness of the symptoms is an indicator of the severity of the disorder. *INTERMITTENT EXPLOSIVE DISORDER*, pp. 366. Diagnostic Criteria: A. Recurrent behavioral outbursts representing a failure to control aggressive impulses as manifested by either of the following: 1. Verbal aggression (i.e., temper tantrums, tirades, verbal arguments …). B. The magnitude of aggressiveness expressed during the recurrent outbursts is grossly out of proportion to the provocations or to any precipitating psychosocial stressors. C. The recurrent aggressive outbursts are not premeditated (i.e., they are impulsive and/or anger-based)."

My mother recurringly refuses to believe she has Alzheimer's. She often recites her doctor's answer (Dr. Ransom) to her question of her showing any signs of Alzheirmers. Dr. Ransom told her, "No." But Joyce A. Simmons, APRN at ARCare, 606 Wilbur D. Mills North, Kensett, Arkansas provided me with her "*TO WHOM AT MAY CONCERN*" letter stating that she saw signs of Alzheimer's while she was examining my mother. Joyce Simmons' recommended in her letter that Dr. Ransom refer my mother to the *UNIVERSITY OF ARKANSAS MEDICAL SCIENCE* (UAMS) for further evaluation. See page 6 for the scanned image of that letter.

I was concerned that Dr. Ransom was not providing his best care and treatment for my mother if he did not see signs of Alzheimer's in my mother but an APRN did see signs of Alzheimer's. The next step for me as both my 83-year-old mother's son (age 61) and her live-in caregiver was to get her evaluated for Alzheimer's at UAMS. When I told my mother of the "To Whom it May Concern" letter and my delivery of that letter to Dr. Ransom she exploded into raging rant that I went behind her back to do this and that.

She got so angry that she got up out of her recliner, her arms flying about in anger as she stormed up to me face to face sizing me up as if to fight but she

looked at the letter in my right hand and made a grab for it but only managed to tear a small piece of it from the top. I lightly grabbed her right wrist with my left hand and with my right hand I peeled the piece of that letter from her fisted left hand. She became so furious that she went back to her recliner and called 911 for the Kensett Police to have me arrested for Arkansas Code § 5-26-305 *DOMESTIC BATTERING IN THE THIRD DEGREE*.

JUDICIAL NOTICE: The Arkansas Code § 5-26-305(a)(1)-(4) for *DOMESTIC BATTERING IN THE THIRD DEGREE* requires physical injuries.

JUDICIAL NOTICE: I did not inflict any injuries. The visible bruising on my mother's arms were from an I.V. for blood tests at a prior Emergency Room visit at the White County Medical Center for excessive dizziness. When the nurse came to take her for a brain scan my mother refused and demanded to be discharge. My suspicion was that she was afraid to learn that the brain scan would prove Alzheimer's.

B. THREE FEATURES OF A KANGAROO COURT

From February 2017 to January 2018 I submitted Motions to the Prosecuting Attorney and Judge Mark Derrick proving my innocence. But each and every motion was ignored because I did not get a ruling on any of my "exculpatory motions."

In May of 2017 I realized that the Kensett District Court was being operated as a kangaroo court. On May 8, 2017 I filed the Motion titled: **THE KENSETT COURT IS A KANGAROO COURT | Motion for Recusal of the Judge for Hostile Display of Bias, Or Motion for Change of Venue And NOTICE: I am Proceeding as *Pro Se*.**

That motion included the following article which describes my experience with the Kensett District Court perfectly:

Three Features of a Kangaroo Court

Written by Christi Hayes and
Fact Checked by The Law Dictionary Staff
http://thelawdictionary.org/article/three-features-kangaroo-court/

Court proceedings that lack the due process protections people associate with courts of law have earned the name "kangaroo court." The term has been in use since at least the 19th century, but it is difficult to pinpoint an exact source for it or to determine why its name includes a reference to an animal native to Australia.

As a general rule, a kangaroo court is any proceeding that attempts to imitate a fair trial or hearing without the usual due process safeguards including the right to call witnesses, the right to confront your accuser and a hearing before a fair and impartial judge. Kangaroo court proceedings are usually a sham carried out without legal authority in

which the outcome has been predetermined without regard to the evidence or to the guilt or innocence of the accused.

Referring to something as a kangaroo court usually carries with it a negative inference because of the manner in which they are conducted. Here are three features of a kangaroo court that set it apart from normally accepted principles of fairness and justice.

LACK OF IMPARTIAL JUDGES

Because the outcome is predetermined before any evidence is presented, kangaroo court proceedings are presided over by a judge or panel of judges that is partial toward the prosecution. Judges during a trial in a kangaroo court usually limit or obstruct efforts by the accused to present evidence or witnesses favorable to the defense while placing almost no restrictions on the evidence prosecutors are allowed to present.

The fact that the judge in a kangaroo court is part of the sham process, the punishment inflicted upon the defendant generally exceeds what might normally be justified based upon the conduct of which the defendant was *accused and convicted. Harsh and severe sentences are common in a kangaroo court*.[19]

ABSENCE OF THE MOST BASIC CONSTITUTIONAL RIGHTS

The right against self-incrimination, the right to cross examine witnesses ***and the presumption of innocence are lacking in a typical kangaroo court. Constitutional safeguards would stand in the way of a kangaroo court reaching its predetermined result. In some instances, limited cross examination of witnesses and other fundamental due process rights might be allowed to the defendant to conceal the true nature of the kangaroo court.***

C. CONSTITUTIONAL CHALLENGE OF ARKANSAS CODE § 5-26-305 *DOMESTIC BATTERING IN THE THIRD DEGREE* (POTENTIAL CIVIL CASE IN FEDERAL COURT FOR DAMAGES)

I challenge the Constitutionality of this statute (§ 5-26-305) as unconstitutionally vague and overbreadth because, as a son and caregiver to my mother I have the constitutional protection from FALSE ARREST and FALSE

[19] Being falsely convicted for a crime I did not commit and being released for time served (13 days in the county jail) is a harsh and severe sentence that has morally and illegally damaged/destroyed my name and reputation. I have a right to a remedy for this “injury” to my name and reputation, i.e., violating my constitutional rights, federal and state statutory rights, and my civil rights.

IMPRISOMENT and FALSE CONVICTION when there is no legally admissible evidence supporting the arrest and confinement under the privileges and immunities clause of the *U.S. Constitution* and the *Constitution of the State of Arkansas* as a "protected class of citizens: family-based live-in caregivers."

D. Constitutional Challenge of Rule 303. Presumptions in Criminal Cases in the Arkansas Rules of Evidence

> RULE 303. PRESUMPTIONS IN CRIMINAL CASES
>
> (a) Scope. Except as otherwise provided by statute, in criminal cases, presumptions against an accused, recognized at common law or created by statute, including statutory provisions that certain facts are prima facie evidence of other facts or of guilt, are governed by this rule.
> (b) Submission to Jury. The court is not authorized to direct the jury to find a presumed fact against the accused. If a presumed fact establishes guilt or is an element of the offense or negatives a defense, the court may submit the question of guilt or of the existence of the presumed fact to the jury, but only if a reasonable juror on the evidence as a whole, including the evidence of the basic facts, could find guilt or the presumed fact beyond a reasonable doubt. If the presumed fact has a lesser effect, the question of its existence may be submitted to the jury provided the basic facts are supported by substantial evidence or are otherwise established, unless the court determines that a reasonable juror on the evidence as a whole could not find the existence of the presumed fact.

E. Presumptions as a Family Caregiver

1. FIRST PRESUMPTION: Constitutional & Statutory Protections

Being a family caregiver has protections under the Privileges and Immunities clause of the U.S. Constitution and the Constitution of the State of Arkansas and under federal and state laws from pettifoggering criminal charges by an elderly mother with emotional and psychological behavioral problems against a family caregiver as I explained in my earlier motions.

2. SECOND PRESUMPTION

> **DECLARATION OF *NULLA POENA SINE LEGE***: *If no Prima Facie evidence can be offered there is no case to answer. No conduct shall be held criminal unless it is specifically described in the behavior-circumstance element of a penal statute and penal statutes must be strictly construed.*

The declaration means that Don Raney must realize that there is no admissible evidence to prosecute this case. The arrest video is inadmissible because

it is evidently questionable on how many officers were wearing body cameras, how many of those officers had their body cameras turned on or turned off and why; and presumptively how many of those captured videos were not disclosed to me as the *pro se* defendant. If there were other captured vides and they were not disclosed to me then that is an act of concealing evidence from me and it becomes acts of obstructing justice.

3. THIRD PRESUMPTION: If the second presumption is true

It then becomes evident that the prosecution of this case is a malicious prosecution of an innocent man.

4. FOURTH PRESUMPTION: If the third presumption is true

I have the right to rebut, to refute, to explain, and/or deny any and all evidence against me. If any evidence is withheld from me at the pre-trial stage then that is, by definition, obstruction of justice. My right to due process under the Fifth and Fourteenth Amendments have been violated.

The includes my right to rebut, to refute, to explain, and/or deny the video evidence of the officers' interview of Patsy and James Hays inside the mobile home when I was outside on the front porch being interviewed.

My presumption here is there is plenty of evidence that would fall favorably for my defense proving my innocence. Again, the concealment of that video is the criminal act of obstructing justice for an innocent man.

F. Gender Discrimination By The Kensett Police Officers

I do not have the names of the Kensett Police officers arriving on scene in response to my mother's 911 call. But one of the officers told me that any time they are called to a domestic battery scene that the "man" must be arrested even if he is innocent.

The Arkansas Code § 5-26-305 *Domestic Battering In The Third Degree* has no such gender-biased mandate. The officer's statement reflects prejudice and a lack of knowledge of, or when to apply, the law to circumstance and perhaps it even reflects erroneous police training on Domestic Battery. Domestic Battery can be committed by either gender regardless of the relationship.

There were no signs of physical abuse or injury on my mother other than bruises on her hands and arms as a result of a recent emergency room visit requirng an IV and blood draws. My arrest was essentially "she said, I said." But because I am age 62, and my mother was age 84 the police ignored my explanation and sided with

my mother's accusation. The error here is with the officer's failure to recognize my mother's behavior in the first 6 to 9 seconds of the arrest video. See below:

FROM THE TRANSCRIPT OF THE ARREST VIDEO

00m:00s | OFFICER TO DON HAMRICK | Do you live here?

00m:02s | HAMRICK | Yes. I'm their caregiver. I do everything for them.

00m:06s | PATSY HAYS | Self-appointed.

00m:07s | DON HAMRICK | No. You asked me to come here.

00m:09s | PATSY HAYS | I want you out.

00m:11s | DON HAMRICK: (Directing his next comment to the officers) All right. Now it's up to you to believe her or me. But under the situation I'd like to take her to the hospital to get her checked out for Alzheimers. | | I tried to explained that I am my mother's caregiver because. But another officer contradicted me by stating that I am not a caregiver. I looked at that officer for his stupidity but said nothing as the arrest continued with the handcuffs.

February 24, 2017 **DECLARATION OF *NULLA POENA SINE LEGE*** = *If no Prima Facie evidence can be offered there is no case to answer. No conduct shall be held criminal unless it is specifically described in the behavior-circumstance element of a penal statute and penal statutes must be strictly construed.* **I AM NOW REPRESENTING MYSELF** Having a Court Appointed Attorney That I Have Not Yet Had a Face-to-Face With *DOES NOT* Mean that I have Waived My Constitutional Right to Represent Myself

April 10, 2017 Motion for Evidentiary Hearing = **AND MOTION TO RECONSIDER THE DENIED DECLARATION OF *NULLA POENA SINE LEGE* AND DEFENDANT'S MOTION TO IMMEDIATELY DISMISS THE CASE WITH PREJUDICE AND TO EXPUNGE THE RECORD: THE DOMESTIC BATTERY CHARGE OF JANUARY 18, 2017, AND THE COURT ORDER OF NO CONTACT HAS THIS BECOME A CASE OF MALICIOUS PROSECUTION?**

Jerome Hall, *NULLA POENA SINE LEGE*, 47 Yale Law Journal 165 (December, 1937): *Nulla oena sine lege* has several meanings. In a narrower treatment-consequence element of penal laws: no person shall be punished except in pursuance of a statute which fixes a penalty for criminal behavior. Employed as *nullum crimen sine leg*e, the prohibition is that no conduct shall be held criminal unless it is specifically described in the behavior-circumstance element of a penal statute. In addition, *nulla poena sine lege* has been understood to include the rule that penal satutes must be strictly construed.

G. MY FALSE CONVICTION

> ***"False convictions are notoriously difficult to study because they can neither be observed when they occur nor identified after the fact by any plausible research strategy."***[20]
>
> ***Miller* v. *United States*,** 230 F.2d 486, at 489 (1956) **"**The claim and exercise of a constitutional right cannot thus be converted into a crime."

This *PETITION FOR WRIT OF CERTIORARI* is a perfect case study for the *FALSE ARREST*, *MALICIOUS PROSECUTION*, and *FALSE CONVICTION* of a 62-year old (now 63) family-based caregiver of his own 84-year-old mother, a U.S. Air Force veteran, and his 87-year old step-father, a highly decorated Korean War combat veteran (died July 26, 2017), on the false charge of *DOMESTIC BATTERY IN THE 2ND DEGREE*, but the arrest ticket was changed to *3RD DEGREE*), but when I proved the charge was false in court, Judge Mylas Hale (post-recusal judge) of the Kensett District Court immediately blindsided me by convicting me of Assault (dropped down from Domestic Battery in the Third Degree). I have been and continue to be running for mayor of Kensett. Perhaps my candidacy for mayor of Kensett was a contributing factor to my conviction because my intent is to make Kensett a *CORRUPTION FREE ZONE*. I characterize the Kensett District Court as a kangaroo court not only because of what I experienced as a factually innocent defendant but also because of Richard Chambless of Bald Knob, Arkansas, a neighboring small town with their own District Court 10 miles to the Northeast of Kensett, with his case of a *FALSE CONVICTION* over his legal act of open carry of his

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[20] Samuel R. Gross, ***WHAT WE THINK, WHAT WE KNOW AND WHAT WE THINK WE KNOW ABOUT FALSE CONVICTIONS***, University of Michigan Law School, U of Michigan Public Law Research Paper No. 537 (February 21, 2017; Last revised: June 3, 2017); Ohio State Journal of Criminal Law, Vol. 14, No. 2, 2017 (Forthcoming). Available online at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2921678

handgun (local travel)[21] in accordance with Arkansas Act 746.[22] Richard Chambliss' case is why I add my case of *NATIONAL OPEN CARRY* under the *SECOND AMENDMENT*, *COMMON DEFENCE CLAUSE*, and the *PRIVILEGES AND IMMUNITIES CLAUSE* at the U.S. District Court in Washington, DC and Little Rock, the U.S. Court of Appeals for the DC Circuit and the 8th Circuit, and at the U.S. Supreme Court, Case No. 03-145, all dismissed/denied.

"*Wrongful convictions are now viewed as a social problem globally*."[23] Locally, White County, Arkansas has the reputation of being the most corrupt county in

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[21] *See multiple news accounts*, Caleb Taylor, ***BKPD ARREST MAN … WELL, SOMETHING***, The Arkansas Project, August 21, 2015, http://www.thearkansasproject.com/bkpd-arrest-man-for-well-something/; Janelle Lilley & Marine Glisovic, ***UPDATE: MAN FOUND GUILTY AFTER BEING ARRESTED FOR OPEN CARRY IN BALD KNOB***, KATV Channel 7 (ABC), August 25, 2015, http://katv.com/news/local/man-arrested-for-open-carry-in-bald-knob; Bob Owens, ***ARKANSAS OPEN CARRIER HAS CASE DISMISSED IN PRECEDENT-SETTING CASE***, November 19, 2015 BearingArms.com, https://bearingarms.com/bob-o/2015/11/19/arkansas-open-carrier-case-dismissed-precedent-setting-case/; Max Brantley, ***FORMER BALD KNOB CHIEF PLEADS IN GUN CASE UPDATE,*** The Arkansas Times, MARCH 14, 2016, www.arktimes.com/ArkansasBlog/archives/2016/03/14/former-bald-knob-chief-expected-in-federal-court; Kelly W. Patterson, ***UPDATE: ARKANSAS POLICE CHIEF THAT ARRESTED MAN FOR OPEN CARRY BURNED HIS OWN TRUCK; STOLE FROM DEPARTMENT***, Copblock (Badges Don't Grant Extra Rights), April 8, 2016, https://www.copblock.org/157693/arkansas-police-chief-arrested-man-for-open-carry-burned-own-truck-stole-from-department/; KTHV (Little Rock TV Channel 11) (AP), ***EX-BALD KNOB POLICE CHIEF GETS 6 MONTHS HOUSE ARREST***, July 22, 2016), www.thv11.com/article/news/local/ex-bald-knob-police-chief-gets-6-months-house-arrest/279842931.

[22] Arkansas House Bill 1700 An Act Making Technical Corrections Concerning the Possession of a Handgun and Other Weapons in Certain Places; And For Other Purposes; State of Arkansas, 89th General Assembly, Regular Session 2013; http://www.arkleg.state.ar.us/assembly/2013/2013R/Pages/BillInformation.aspx?measureno=HB1700; Jacqueline Froelich, Coming to Grips with Arkansas's Open Carry Gun Law, UALR Public Radio (NPR), Jan 22, 2018, http://ualrpublicradio.org/post/coming-grips-arkansass-open-carry-gun-law; Arkansas Governor Asa Hutchinson, Memorandum on Arkansas Act 746 of 2013, for Colonel Bill Bryant, Director of the Arkansas State Police, dated December 15, 2017, Bill Bryant's let to Arkansas Governor, www.arkansasonline.com/122817opencarry/#1; Governor Hutchinson's Memorandum, www.arkansasonline.com/122817opencarry/#2; and www.arkansasonline.com/122817opencarry/#3.

[23] Marvin Zalman, *WRONGFUL CONVICTIONS: A COMPARATIVE PERSPECTIVE*, Wayne State University, May 4, 2016. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2899482.

Arkansas. In Kensett, Arkansas, the surrounding small towns are known for cooperative corruption with Kensett.

I filed my Public Corruption complaints with the FBI Little Rock concerning the Kensett District Court being run as a kangaroo court. I even gave the FBI Little Rock a copy of my civil complaint for the U.S. District Court of Little Rock and a copy of my appeal for the 8th Circuit to the FBI Little Rock as an unrepresented civil plaintiff to support my complaint to the FBI.

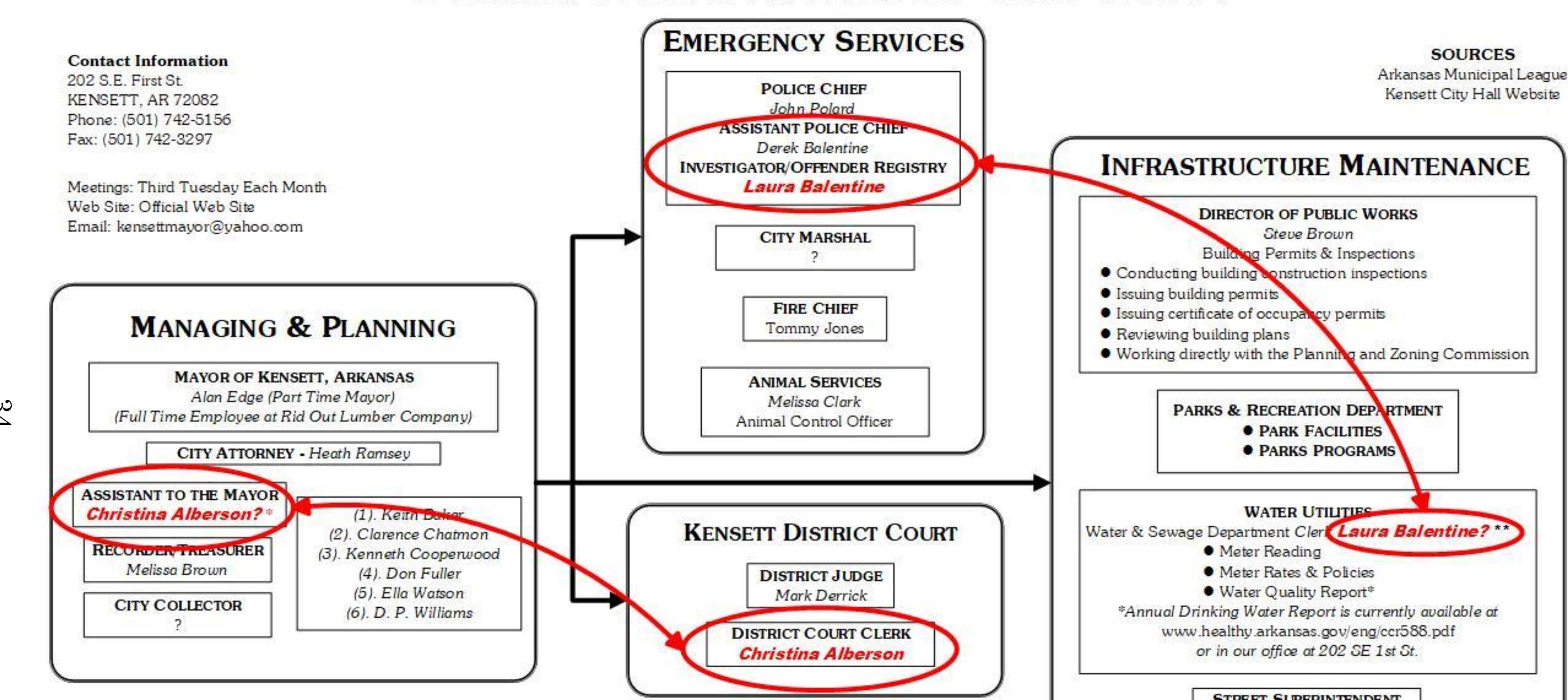
The original Duty Agent, Brown, treated me with skepticism, disbelief, and outright prejudice because, in my opinion, I was not an attorney, I was just a nobody. The Duty Agent's behavior on my second visit to the FBI Little Rock was just as bad as the first. I guess I have a reputation with the FBI Little Rock now. That's how Public Corruption thrives in small towns. No one in state or federal law enforcement gives a damn. Small town corruption complaints are apparently treated as annoyances and not important enough because everyone wants the "career making" state-wide or national publicity cases. (*Yes, that's my sarcastic criticism as a logical, analytical pragmatist and as a falsely convicted but factually innocent victim of public corruption.*)

CORRUPTION IN KENSETT CITY HALL

Contact Information
202 S.E. First St.
KENSETT, AR 72082
Phone: (501) 742-5156
Fax: (501) 742-3297

Meetings: Third Tuesday Each Month
Web Site: Official Web Site
Email: kensettmayor@yahoo.com

SOURCES
Arkansas Municipal League
Kensett City Hall Website



CORRUPTION IN BALD KNOB: ***Erek Balentine*** resigned as Chief of Police for Bald Knob on October 5, 2015 after he arrested Richard Chambless in May 2015 for openly carrying a holstered handgun into McDonald's in Bald Knob and for disorderly conduct. Erek Balentine insisted open carry is illegal in defiance of the 2013 Arkansas law that legalized open carry in Arkansas (Act 746). Richard Chambless was found guilty of "illegally carrying a weapon" after lawfully open carrying his sidearm. Stemming from charges in May, the White County district court ignored Arkansas state law and found Richard Chambless guilty. On November 17, 2015 the case against Chambless was dropped, according to ***Bald Knob City Attorney Don Raney.*** **||| NOTE:** ***Derek Balentine***, Kensett Assistant Chief of Police; And ***Laura Balentine*** Kensett Police Officer AND employee of Kensett Water & Sewage Company in Kensett City Hall.

H. CITING GEOFFREY MILLER, BAD JUDGES, 83 TEXAS LAW REVIEW, 456 (2004).

BIAS, PREJUDICE, AND INSENSITIVITY.[24]

> *"Bad judges display bias, prejudice, and stereotypical thinking. In criminal cases, they manifest prejudice against . . . **the accused**.*[25] *. . . They look down on poor people,*[26] *. and scold or discriminate against . . . **caregivers**."*

INAPPROPRIATE BEHAVIOR IN JUDICIAL CAPACITY.[27]

> *"Bad judges display poor judgment and inappropriate behaviors when acting in their judicial capacities."*

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[24] Stephen Hunt, ***REMARKS BY A JUDGE UPSET ATTORNEY**, ACLU,* Salt Lake Trib., Oct. 16, 2002, at Cl (criticizing the ACLU for "whining and complaining" rather than helping people).

[25] *E.g., In re* Dillon (N.Y. Comm'n on Jud. Conduct, Feb. 6, 2002) (finding judicial misconduct when a judge at a post-verdict proceeding chastised defense counsel), *available at* http://www.scjc.state.ny.us/Determinations/D/dillon_2002.htm; John Caher, *AGENCY'S AUTHORITY TO ACT UNDER "SPARGO " CLARIFIED: PROSECUTIONS FOR BEHAVIOR ON THE BENCH MAY PROCEED,* N.Y. L.J ., Apr. 22, 2003, at 1 (reporting that a judge had been accused of "denying assigned counsel, setting unreasonably high bail, coercing guilty pleas, [and] entering convictions against defendants who were not before him"); Janan Hanna, *OUTSPOKEN JUDGE WILL TAKE CLASS TO CURB ANGER,* Chi. Trib., May 9, 2002, at I, at 1 (reporting that a judge interrupted a defense lawyer' s closing arguments forty-five times and suggested that the defense witnesses were thieves and drug addicts); Ann W. O'Neil, *APPEALS COURT CRITICIZES L.A. JUDGE FOR 'EGREGIOUS' MISCONDUCT,* L.A. Times, May 25, 2000, at B3 (reporting that a judge created the impression that he was allied with the prosecution); Dennis Opatrny, *MORE THAN HALF OF S.F. BENCH UP FOR RE-ELECTION,* S.F. Recorder, May 8, 2001, at 1 (reporting that a judge was reassigned from criminal cases after being accused of bias by the public defender's office); David Rosenzweig, *JUDGE REMOVED FROM CASE OVER REMARK,* L.A. Times, Mar. 14, 2001 , at B 1 (**reporting that a judge questioned the credibility of criminal defendants who testified in their own defense**). [***My emphasis!***]

[26] *E.g. , Jn re* Michelson, 591 N.W.2d 843, 844 (Wis. 1999) (noting a panel's finding that a judge's comments demonstrated bias based on socioeconomic status).

[27] Geoffrey Miller, ***BAD JUDGES***, 83 Texas Law Review, 451 (2004).

THE POLICY TRADEOFF [28]

Fundamental to the American system of government is the proposition that the judicial branch should be independent from the political branches of government. Independence safeguards the public against governmental oppression or expropriation, and it protects against corruption of the administration of justice by private interests. At the same time, judges wield enormous authority, including the power of judicial review. Accordingly, their independence cannot be unlimited. They must be accountable to the public through some type of democratic process. The tradeoff between independence and accountability is unavoidable and forms a central problem for American constitutional theory.

Less commonly recognized is a different set of tradeoffs involving the quality of judicial action. Judicial independence requires that judges be insulated from oversight and control by parties outside of the judicial branch. Thus, judges serve for substantial terms of office, may not be removed except for gross misconduct, and (at least at the federal level) enjoy protection against diminution in their salaries. The expression of judicial independence has gone even beyond the concept that the judicial branch must be protected against intrusions by the political branches. In practical implementation, it entails granting trial courts substantial autonomy even from oversight and control within the judicial branch. American trial judges are satraps with powers small in extent but vast within the ambit of their potency.

The independence of American trial judges interacts in a complex way with the quality of their work product. On the one hand, independence is itself a quality enhancing policy. If judges are not independent, they will be subject to influence that could distort the outcomes of cases, skew the development of substantive law, and detract from public confidence in the judicial system. Along this dimension, independence is positively correlated with quality. On the other hand, independence also comes with a cost.

Power unchecked becomes power abused. A corporate executive who performs badly can be penalized by receiving lower compensation or suffering a demotion and must be prepared to receive criticism from others in a team setting. But in a world of perfect judicial independence, such constraints would not apply to trial judges. Even if they perform badly, they would still receive deference from lawyers who appear before them, would still retain the status, salary, and perquisites of office, and would still be emperors of their small domains. Human beings in robes, judges shirk when they can get away with it.

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[28] Geoffrey Miller, ***BAD JUDGES***, 83 Texas Law Review, 456-458 (2004). Citations omitted.

Accountability also interacts with quality of judicial action. Like independence, accountability is partially justified as a performance-enhancing measure. It provides a method for penalizing judges who provide poor service to the public. Judges who are known to be corrupt, abusive, or biased can be voted out of office, and those who are unqualified may not be elected. Accountability also provides a democratic check in the substantive development of the law, at least at the higher levels of the judiciary. A judge who is too liberal or too conservative, too coddling of criminals or too favrable toward the prosecution, can face criticism for those decisions and possibly sanction from the voters.

I. ABOUT THE ANTI-INJUNCTION ACT, 28 U.S. CODE § 2283 STAY OF STATE COURT PROCEEDINGS AS A NECESSITY OF CLEAR CASE

28 U.S. Code § 2283 Stay of State Court Proceedings, states:

> "A court of the United States may not grant an injunction to stay proceedings in a State court ***except*** as expressly authorized by Act of Congress, or ***where necessary in aid of its jurisdiction***, or to protect or effectuate its judgments".

MY COMMENT: Issuing a Stay of State Court Proceedings where a factually innocent defendant is threatened with a False Conviction qualifies as a *NECESSITY OF CLEAR CASE* because preventing a factually innocent defendant from being railroaded to a False Conviction in violation of innocence, constitutional rights, liberties, and freedoms *is necessary in aid of the Federal Court's jurisdiction*. Denying my case is an undeniable act of judicial error. It is prejudicial to my procedural and substantive due process rights. And it is treason against the U.S. Constitution. It is my right to restore my name and reputation because I am INNOCENT! For the Love of God! I am INNOCENT!

Citing *AMERICAN JURISPRUDENCE 2d*, State & Federal, Volume 42, Injunctions, § 17 ***NECESSITY OF CLEAR CASE***. Footnotes omitted.

> An injunction is considered an extraordinary remedy that should be exercised sparingly and cautiously. It is a drastic remedy that should be **used only when legal rights are unlawfully invaded or legal duties are willfully or wantonly neglected. The relief should be awarded only in clear cases that are reasonably free from doubt and when necessary to prevent irreparable injury. The complainant has the burden of proving the facts that entitle him or her to relief**.

Citing *Coit* v. *Elliott*, Judge, *PETITION FOR MANDAMUS*, 24 Ark. 294, December 6, 1873, by Chief Justice McClure.

WHAT AN APPLICATION FOR MANDAMUS MUST SHOW.

> To authorize the issuance of a writ of peremptory mandamus, it must be shown that there has been a refusal by the person against whom the writ is sought, to do the act or perform the duty imposed by the law which it is the object of the mandamus to enforce, either in direct terms, or by circumstances distinctly showing an intention in the party not to do the act required.

WHERE MOTION FILED FOR CHANGE OF VENUE AFTER ORDER OF CONTINUANCE.

> Where, after a motion for a new trial granted and order of continuance, the defendant presents a motion for 11. change of venue, it is within the discretion of the court to bear the motion at that term, or postpone its consideration to the term to which the cause stands continued.

28 Ark. 295

> Upon this showing, an alternative writ of mandamus was asked and awarded, commanding saidi judge to entertain said motion, and to make an order to change the venue of said cause, or show cause why he should not do so.

28 Ark. 296

> In order to lay the foundation for issuing a writ of mandamus, there must have been a refusal to do that which it is the object of the mandamus to enforce, either in direct terms, or by circumstances distinctly showing an intention in the party not to do the act required. 3 Stephens Nisi Prius, 2292; Redfield on Railways, 441, note 5.

28 Ark. 297

> The mere fact that the cause was continued before the motion for a change of venue was made did not relieve or excuse the judge from entertaining the motion. In fact, we think it was his duty, notwithstanding the order of continuance, to have taken up the motion for change of venue and to have made some disposition of it. It appears from the judge's own showing that, during the time he was making the order granting a new trial and continuing the cause, the counsel of defendant arose and stated that they wanted to file a motion for a change of venue. From this, it appears the judge had knowledge that a change of venue was desired before he had concluded his remarks about granting a new trial and. ordering a

> continuance. With that knowledge before him he should have halted and, at least, heard what the defendant had to say, before ordering a continuance on his own motion.
>
> The defendant was entitled to a speedy trial, under our constitution, and no order should have been made which in any manner abridged that right, unless the state could not safely proceed to trial, and of this fact the prosecuting attorney is presumed to know more than the judge. The mere fact that a continuance was ordered did not deprive the court from hearing the motion, as the same power that made it could have set it aside. While the conduct of the judge comes far from meeting the approbation of this court, his response does not show an absolute refusal to grant the motion, but, on the contrary, an intention to dispose of it at the next term of the court. For these reasons the peremptory writ will not issue.

THE ALL WRITS ACT, 28 U.S. CODE § 1651(a) &(b) states that:

> (a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate **in aid of their respective jurisdictions** and agreeable to the usages and principles of law.
>
> (b) **An alternative writ or rule nisi may be issued by a justice or judge of a court which has jurisdiction**.

THE ANTI-INJUNCTION ACT, 28 U.S. CODE § 2283 STAY OF STATE COURT PROCEEDINGS state that: *A court of the United States may not grant an injunction to stay proceedings in a State court* ***except*** *as expressly authorized by Act of Congress, or* ***where necessary in aid of its jurisdiction****, or to protect or effectuate its judgments.*

THE FOUR-FACTOR TEST[29]

A plaintiff seeking a permanent injunction must satisfy a four-factor test before a court may grant such relief and must demonstrate that:

> (1). [He] has suffered an irreparable injury,
>
> (2). Remedies available at law, such as monetary damages, are inadequate to compensate for that injury,
>
> (3). Considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted, and
>
> (4). The public interest would not be disserved by a permanent injunction.

[29] *FEDERAL PROCEDURAL FORMS, LAWYERS EDITION: INJUNCTIONS AND RESTRAINING ORDERS*, § 42:2, p. 194.

SOURCE:

American Jurisprudence 2d

EVIDENCE, Voume 29A **§ 785 EVIDENTIAL ADMISSIONS DISTINGUISHED**

Generally, evidential admissions are words or conduct admissible evidence against the party making them, but subject to rebuttal or denial.[41]

> **OBSERVATION:** The distinction between judicial admissions and mere evidentiary admissions is a significant one that should not be blurred by imprecise usage.[42]

Unlike judicial admissions, evidentiary admissions may be contradicted or explained by the party.[43]

J. LIST OF (EXCULPATORY) MOTIONS I FILED WITH THE KENSETT DISTRICT COURT PROVING MY INNOCENCE

February 13, 2017 **DEFENDANT'S MOTION TO IMMEDIATELY DISMISS WITH PREJUDICE AND EXPUNGEMENT THE RECORD: THE DOMESTIC BATTERY CHARGE OF JANUARY 18, 2017, AND THE COURT ORDER OF NO CONTACT**

THE INCIDENT CAUSING THE ARREST

My mother has periodic episodes of excessive anger directed specifically at me. See, *DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS* (DSM5). OPPOSITIONAL DEFIANT DISORDER, pp. 426–463 (Specifiers: It is not uncommon [My comment: *meaning – It is common. . .*] for individuals with *OPPOSITIONAL DEFIANT DISORDER* to show symptoms only at home and only with family members. However, the pervasiveness of the symptoms is an indicator of the severity of the disorder. *INTERMITTENT EXPLOSIVE DISORDER*, pp. 366. Diagnostic Criteria: A. Recurrent behavioral outbursts representing a failure to control aggressive impulses as manifested by either of the following: 1. Verbal aggression (i.e., temper tantrums, tirades, verbal arguments …). B. The magnitude of aggressiveness expressed during the recurrent outbursts is grossly out of proportion to the provocations or to any precipitating psychosocial stressors. C. The recurrent aggressive outbursts are not premeditated (i.e., they are impulsive and/or anger-based)."

My mother recurringly refuses to believe she has Alzheimer's. She often recites her doctor's answer (Dr. Ransom) to her question of her showing

any signs of Alzheirmers. Dr. Ransom told her, "No." But Joyce A. Simmons, APRN at ARCare, 606 Wilbur D. Mills North, Kensett, Arkansas provided me with her "*TO WHOM AT MAY CONCERN*" letter stating that she saw signs of Alzheimer's while she was examining my mother. Joyce Simmons' recommended in her letter that Dr. Ransom refer my mother to the *UNIVERSITY OF ARKANSAS MEDICAL SCIENCE* (UAMS) for further evaluation. See page 6 for the scanned image of that letter.

I was concerned that Dr. Ransom was not providing his best care and treatment for my mother if he did not see signs of Alzheimer's in my mother but an APRN did see signs of Alzheimer's. The next step for me as both my 83-year-old mother's son (age 61) and her live-in caregiver was to get her evaluated for Alzheimer's at UAMS. When I told my mother of the "To Whom it May Concern" letter and my delivery of that letter to Dr. Ransom she exploded into raging rant that I went behind her back to do this and that.

She got so angry that she got up out of her recliner, her arms flying about in anger as she stormed up to me face to face sizing me up as if to fight but she looked at the letter in my right hand and made a grab for it but only managed to tear a small piece of it from the top. I lightly grabbed her right wrist with my left hand and with my right hand I peeled the piece of that letter from her fisted left hand. She became so furious that she went back to her recliner and called 911 for the Kensett Police to have me arrested for Arkansas Code § 5-26-305 *DOMESTIC BATTERING IN THE THIRD DEGREE*.

> **JUDICIAL NOTICE:** The Arkansas Code § 5-26-305(a)(1)-(4) for *DOMESTIC BATTERING IN THE THIRD DEGREE* requires physical injuries.

> **JUDICIAL NOTICE:** I did not inflict any injuries. The visible bruising on my mother's arms were from an I.V. for blood tests at a prior Emergency Room visit at the White County Medical Center for excessive dizziness. When the nurse came to take her for a brain scan my mother refused and demanded to be discharge. My suspicion was that she was afraid to learn that the brain scan would prove Alzheimer's.

CONSTITUTIONAL CHALLENGE OF ARKANSAS CODE § 5-26-305 *DOMESTIC BATTERING IN THE THIRD DEGREE* (POTENTIAL CIVIL CASE IN FEDERAL COURT FOR DAMAGES)

I challenge the Constitutionality of this statute (§ 5-26-305) as unconstitutionally vague and overbreadth because, as a son and caregiver to my mother with Alzheimer's/Dementia, I have the constitutional protection from FALSE ARREST and FALSE IMPRISOMENT when there is no evidence supporting the arrest and confinement under the privileges and immunities clause of the *U.S. CONSTITUTION* and the *CONSTITUTION OF THE STATE OF ARKANSAS* as a "protected class of citizen."

THE KENSETT POLICE OFFICERS ON SCENE (POLICE INCOMPETENCE)

I do not have the names of the Kensett Police officers arriving on scene in response to my mother's 911 call. But one of the officers told me that any time they are called to a domestic battery scene that the "man" must be arrested even if he is innocent.

JUDICIAL NOTICE: The Arkansas Code § 5-26-305 *DOMESTIC BATTERING IN THE THIRD DEGREE* has no such gender-biased mandate. The officer's statement reflects prejudice and a lack of knowledge of, or when to apply, the law and perhaps it even reflects erroneous training on Domestic Battery, that it can be committed by either gender regardless of the relationship, and that an allegation of Domestic Battery from an elderly person with Alzheimer's when there is no evidence of physical injury cannot be prosecuted in court due to mental defect from Alzheimer's.

When I tried to explained the situation that I am her son and I am her caregiver because she has Stage 4 Alzheimer's another officer contradicted me by stating that I am not a caregiver. I looked at that officer for his stupidity but said nothing as the arrest continued with the handcuffs.

NO CHOICE FOR THE JUDGE BUT TO DISMISS WITH PREJUDICE IN THE INTEREST OF JUSTICE

The above are the true facts of the matter from my perspective. Under these facts the charge of *DOMESTIC BATTERING IN THE THIRD DEGREE* and the corresponding *NO CONTACT ORDER* must be dismissed with prejudice and no filing of alternative charges permitted in the interest of justice.

February 24, 2017 **DECLARATION OF *NULLA POENA SINE LEGE*** **=** *If no Prima Facie evidence can be offered there is no case to answer. No conduct shall be held criminal unless it is specifically described in the behavior-circumstance element of a penal statute and penal statutes must be strictly construed.* **I AM NOW REPRESENTING MYSELF** Having a Court Appointed Attorney That I Have Not Yet Had a Face-to-Face With *DOES NOT* Mean that I have Waived My Constitutional Right to Represent Myself

April 10, 2017 Motion for Evidentiary Hearing = **AND MOTION TO RECONSIDER THE DENIED DECLARATION OF *NULLA POENA SINE LEGE* AND DEFENDANT'S MOTION TO IMMEDIATELY DISMISS THE CASE WITH PREJUDICE AND TO EXPUNGE THE RECORD: THE DOMESTIC BATTERY CHARGE OF JANUARY 18, 2017, AND THE COURT ORDER OF NO CONTACT HAS THIS BECOME A CASE OF MALICIOUS PROSECUTION?**

Jerome Hall, *NULLA POENA SINE LEGE*, 47 Yale Law Journal 165 (December, 1937): *Nulla oena sine lege* has several meanings. In a narrower treatment-consequence element of penal laws: no person shall be punished except in pursuance of a statute which fixes a penalty for criminal behavior. Employed as *nullum crimen sine leg*e, the prohibition is that no

conduct shall be held criminal unless it is specifically described in the behavior-circumstance element of a penal statute. In addition, *nulla poena sine lege* has been understood to include the rule that penal satutes must be strictly construed.

April 10, 2017 **DISCOVERY PROCEEDINGS = UNDER ARKANSAS RULES OF CRIMINAL PROCEDURE | DEFENDANT'S INTERROGATORY TO THE PROSECUTING ATTORNEY UNDER RULE 17 DISCLOSURE TO DEFENDANT**

Under Rule 19.1. *[DISCOVERY] INVESTIGATION NOT TO BE IMPEDED*, I understand that there is no Arkansas law or rule of court that prohibits a criminal defendant to act as his own attorney representing himself while he has a court appointed attorney on the basis that a court appointed attorney may not have the time to pursue the defense of the criminal defendant as thoroughly as the criminal defendant himself.

QUESTION 1. Under Rule 17.1 *PROSECUTING ATTORNEY'S OBLIGATIONS* and Rule 19.2 *CONTINUING DUTY TO DISCLOSE* did you discover any material or information within your knowledge, possession, or control, which tends to *negate the guilt of the defendant as to the offense charged*? If yes, did you disclose that information to the defendant himself and defendant's court appointed attorney or only to the defendant's court appointed attorney? What was that information?

QUESTION 2. Have you complied with every element under Rule 17.1
PROSECUTING ATTORNEY'S OBLIGATIONS and Rule 19.2 *CONTINUING DUTY TO DISCLOSE?* If not, what elements did you not comply with and will you correct that to be in compliance with the Discovery Rules and your obligations under Rule 7.1 and 19.2?

QUESTION 3. Have you complied with the *NULLA POENA SINE LEGE* doctrine to make sure that the circumstances and the defendant's actions fit the allegation of Arkansas Penal Code § 5-13-202 *BATTERY IN THE SECOND DEGREE?*

QUESTION 4. Did the defendant commit any injury to the alleged victim, Patsy Ann Hays, that would fit Arkansas Penal Code § 5-13-202 *BATTERY IN THE SECOND DEGREE?* If you believe yes, what were the injuries? Be warned though, the truth is that the defendant did not cause any injuries. The bruises on Patsy Ann Hays resulted from a prior visit to the White County Medical Center's emergency room for serious dizziness where the nurse took a blood sample. Patsy Ann Hays bruises very easily. This implies a wrongful application of the Arkansas Penal Code § 5-13-202 *BATTERY IN THE SECOND DEGREE*. That in itself is due cause to dismiss the case with prejudice. If you proceed with prosecution you will be susceptible to a charge of malicious prosecution and an ethics complaint with the State Bar. This is the defendant procedural intention to prove his innocence under

the *NULLA POENA SINE LEGE* doctrine.

QUESTION 5. Is the defendant's scheduled court appearance date of April 25, 2017 at 9:00 AM an Omnibus Hearing (Rule 20.2), a Pretrial Conference (Rule 20.4) or the actual trial?

April 17, 2017 **INSISTENT DECLARATION OF *NULLA POENA SINE LEGE!* | ARKANSAS RULES OF EVIDENCE | Rule 402. Relevant Evidence Generally Admissible Rule 404. Character Evidence \ Rule 406. Habit - Routine Practice**.

It is my honor to be my mother's caregiver. It is because of how my mother raised me despite her personality disorders that I adapted to the circumstances by educating myself in everything I needed and wanted to learn. I am very well self-educated thanks to my mother.

OPPOSITIONAL DEFIANT DISORDER 313.81 (F 91.3)

Diagnostic Criteria

A. A pattern of **angry/irritable mood, argumentative/ defiant behavior, or vindictiveness** lasting at least 6 months as evidenced by at least four symptoms from any of the following categories, and exhibited during interaction with at least one individual who is not a sibling.

Angry/Irritable Mood

1. Often loses temper.
2. Is often touchy or easily annoyed.
3. Is often angry and resentful.

Argumentative/Defiant Behavior

4. Often argues with authority figures or, for children and adolescents, with adults.
5. Often actively defies or refuses to comply with requests from authority figures or with rules.
6. Often deliberately annoys others.
7. Often blames others for his or her mistakes or misbehavior.

Vindictiveness

8. Has been spiteful or vindictive at least twice within the past 6 months.

B. The disturbance in behavior is associated with distress in the individual or others in his or her immediate social context (e.g., family, peer group, work colleagues), or it impacts negatively on social, educational, occupational, or other important areas of functioning.

INTERMITTENT EXPLOSIVE DISORDER 312,34 (F63.81)

Diagnostic Criteria

A. Recurrent behavior outbursts representing a failure to control aggressive impulses as manifested by either of the following:

> 1. Verbal aggression (e.g. temper tantrums, tirades, verbal arguments or fights) or physical aggression toward property, animals, or other individuals, occurring twice weekly, on average, for a period of 3 months. The physical aggression does not result in damage or destruction of property and does not result in physical injury to animals or other individuals.

B. The magnitude of aggressiveness expressed during the recurrent outbursts is grossly out of proportion to the provocation or to any7 precipitating psychosocial stressors.

C. The recurrent aggressive outbursts are not premeditated (i.e., they are impulsive and/or anger-based) and are not committed to achieve some tangible objective (e.g. money, power, intimidation).

D. The recurrent aggressive outbursts cause either marked distress in the individual or impairment in occupational or interpersonal functioning, or are associated with financial or legal consequences.

E. Recurrent behavior outbursts representing a failure to control aggressive impulses as manifested by either of the following:

E. Verbal aggression (e.g. temper tantrums, tirades, verbal arguments or fights) or physical aggression toward property, animals, or other individuals, occurring twice weekly, on average, for a period of 3 months. The physical aggression does not result in damage or destruction of property and does not result in physical injury to animals or other individuals.

F. The magnitude of aggressiveness expressed during the recurrent outbursts is grossly out of proportion to the provocation or to any7 precipitating psychosocial stressors.

G. The recurrent aggressive outbursts are not premeditated (i.e., they are impulsive and/or anger-based) and are not committed to achieve some tangible objective (e.g. money, power, intimidation).

H. The recurrent aggressive outbursts cause either marked distress in the individual or impairment in occupational or interpersonal functioning, or are associated with financial or legal consequences.

FOR THE JUDGE & PROSECUTING ATTORNEY

In the interest of justice, the both of you would do well to heed this *INSISTENT DECLARATION OF NULLA POENA SINE LEGE!* on the basis that I really am innocent and the both of you may very well face an ethics

complaint and maybe disbarment. I have submitted ample evidence to the prosecuting attorney, Don Raney, proving my innocence but he apparently ignored the evidence. Dismissing the charge and expunging my record for lack of evidence at the pre-trial stage (before the trial date) is the right thing for Don Raney to do before the trial and the right thing for the judge to do at trial with sanctions against Don Raney. The lack of response from Don Raney during the pre-trial stage appears to me that I may be railroaded to a conviction at trial.

This is NOT a threat or an act of intimidation. It is my advisory on my procedural and substantive due process rights.

April 19, 2017 **DOUBLE INSISTENT DECLARATION OF *NULLA POENA SINE LEGE!* | MORE EVIDENCE OF MALICIOUS PROSECUTION**

April 19, 2017 MOTION TO DISMISS WITH PREJUDICE | FOR ABUSE OF PROCESS | FOR MALICIOUS PROSECUTION | FOR MISCARRIAGE OF JUSTICE | **BECAUSE I AM INNOCENT!**

"Abuse of process refers to the improper use of a civil or criminal legal procedure for an unintended, malicious, or perverse reason. It is the malicious and deliberate misuse of regularly issued civil or criminal court process that is not justified by the underlying legal action." …. "The key elements of abuse of process is the malicious and deliberate misuse of regularly issued civil or criminal court process that is not justified by the underlying legal action, and that the abuser of process is interested only in accomplishing some **improper purpose** similar to the proper object of the process. Abuse of process is an intentional tort. Abuse of process encompasses the entire range of procedures incident to the litigation process such as discovery proceedings, the noticing of depositions and the issuing of subpoenas." *Pellegrino Food Prods. Co.* v. *City of Warren*, 136 F. Supp. 2d 391, 407 (W.D. Pa. 2000).Law Offices of Stimmel, Stimmel, & Smith, *ABUSE OF PROCESS: THE BASICS AND PRACTICALITIES*, (note dated). | **IMPROPER PURPOSE**: Prosecuting an innocent person when evidence proving innocence has been submitted by the wrongly accused.

The April 25th the judge called Patsy Hays to ask her if she wants to drop the charge (referring to the Affidavit of Patsy Hays). She answered, Yes. The judge then explained to her that my arrest was an officer's arrest by the Chief of Police, John Bollard and only he could drop the charge. The Chief of Police willfully and knowingly lied to Patsy Hays by telling her she can go to court to tell the judge she could drop the charges. AGAIN, this is evidence of abuse of process and malicious prosecution.

JUDGE'S ERRONEOUS ADMONISHMENT TO THE WRONGLY ACCUSED (ME)

On April 25 at my court appearance the judge admonished me for acting as my own attorney when I had a court appointed attorney. He admonished me

because my motions to dismiss with prejudice where arguing against the charge of Arkansas Code § 5-26-304 *DOMESTIC BATTERY IN THE 2ND DEGREE* when the charge was Arkansas Code § 5-26-305 *DOMESTIC BATTERY IN THE 3RD DEGREE.*

The charge of Arkansas Code § 5-26-304 *DOMESTIC BATTERY IN THE 2ND DEGREE* was what the arresting officer told me at the time of the arrest and as it appeared to me on the original *ARKANSAS UNIFORM LAW ENFORCEMENT CITATION*. The altered Citation reading 3rd Degree was not brought to my attention nor did I focus on that portion of the Citation due to my neglect through believing what was told to me at the time of the on-scene arrest.

However, the Citation was clearly altered to reflect § 5-26-305's 3rd Degree offense after my arrest. The term "*2nd Degree*" was clearly stated to me a number of times before the Citation was altered to read "*3rd Degree*." That is why my motions referred the "2nd Degree" citation. Being arrested on scene for "2nd Degree" but prosecuted for "3rd Degree" is, by definition, "Abuse of Process" and "Malicious Prosecution" because both offenses require physical injury.

The fact is I did NOT injure my mother at all. As I have stated in my motions, the bruises the officers referred to were the result of prior blood test during a visit to the White County Medical Center's Emergency Room for excessive dizziness. The police or the prosecuting attorney could have investigated this fact and found it to be true.

I assume they did not investigate this fact. That omission contributes to my allegation of abuse of process and malicious prosecution.

I have mailed the altered Citation implying abuse of process to the court appointed attorney, Eric Kennedy.

CHIEF OF POLICE JOHN POLLARD'S ABSENCE AT COURT

I presume the arresting officer, the Chief of Police, was required to be present for questioning. Maybe that requirement applies only at trial. Nevertheless, his absence denied the opportunity for my court appointed attorney and I to ask him whether the evidence I submitted was enough to persuade him of my innocence and if he would drop this officer's arrest. The case was set for trial on August 22nd. I sincerely feel that I am being railroaded to a false conviction based on corruption in a kangaroo court. That's my fear.

OCCAM'S RAZOR

Isaac Newton's version of Occam's Razor? "*We are to admit no more causes of natural things than such as are both true and sufficient to explain their appearances*." The most useful statement of the principle for scientists is "*When you have two competing theories that make exactly the same predictions, the simpler one is the better*."

The Kensett Police Department, the prosecuting attorney Don Raney, and the judge are locked into the procedural due process for the accused who are guilty. But when the **falsely** accused is discovered to be innocent at the pre-trial stage the Chief of Police and prosecuting attorney, each have the authority and duty to drop the charges when it is clear that the accused is innocent saving the falsely accused the ordeal of a trial.

Arkansas Democrat Gazette
Arkansas' Largest Newspaper

Irritation at Arkansas Judges Stirs Talk of Change

Lawmakers Take Steps in Conflict

By John Moritz

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http://www.arkansasonline.com/news/2017/may/07/irritation-at-judges-stirs-talk-of-chan/

Judges -- especially those working in Pulaski County -- have drawn the ire of legislators more than once over the years.

Lawmakers upset with the rulings of judges working in the county that is home to the state Capitol in Little Rock have called for investigations, issued subpoenas and even raised talk of impeachment.

Last week, in reaction to Circuit Judge Wendell Griffen's anti-death penalty demonstration a few weeks ago, House lawmakers, for the first time, took the step of approving rules for impeaching an official.

Even though the state's 1874 constitution gives the House the power of impeachment, the House had never before adopted rules outlining the procedures it would follow, because the chamber had never impeached anyone.

After adopting the rules, lawmakers went home. More than a dozen Republicans said in interviews last week that they will wait for a judicial disciplinary panel to do its work before they decide whether to file articles of impeachment against Griffen.

Filing articles of impeachment would not be the first action taken against the Pulaski County judiciary by the 91st General Assembly. Act 967, passed by both chambers with broad support earlier this year, allows the state to ask that lawsuits against it be moved out of Pulaski County into another jurisdiction. Many existing state laws require that suits involving state agencies be filed in Pulaski County.

Before actively urging the House to impeach Griffen in last week's special session, Sen. Trent Garner, R-El Dorado, said he sponsored the bill that became Act 967 to replace an "archaic" system. But in an interview last week, he also said he had Griffen in mind.

"I've been tracking Judge Griffen's radical action for the last couple years," said Garner, who is serving his first term.

Griffen's April demonstration -- in which he took off his panama hat and lay on a cot in front of the Governor's Mansion -- followed his issuance of a restraining order preventing the state from using one of the drugs needed for executions. In the end, the state executed four of eight prisoners originally scheduled to die in April.

Twice before, Griffen had ruled against the state's death-penalty laws.

Whether lawmakers agree with Griffen's outspokenness or not, the state's rules of judicial ethics do not necessarily bar out-of-court commentary by judges, said former Supreme Court Chief Justice Howard Brill, who wrote the book on the topic, Arkansas Professional and Judicial Ethics.

"Extrajudicial activities" are permitted under Rule 3.1 of the Arkansas Code of Judicial Conduct, as long as they do not undermine a judge's "independence, integrity or impartiality." A comment attached to the rule states that judges speaking out on social or political issues should weigh the impact of their comments, and consider recusing from cases when necessary.

K. My Letter to My Court Appointed Attorney Firing Him for Incompetence and or Duplicity with the Prosecutor

Don Hamrick Tuesday, May 9, 2017

322 Rouse Street; Kensett, Arkansas 72082-3721 ki5ss@yahoo.com

To: Eric Kennedy (**Fired** Court Appointed Attorney) **Don Raney (Kensett Court Prosecuting Attorney)** Christina Alberson (Kensett Court Clerk)

Cc: Stark Ligon, Arkansas Office of Professional Conduct

Don Raney's Obstruction of Justice

Against Pro Se Defendant's Right to Represent Himself

ITEM 1. ERIC KENNEDY. By taking advantage of the judge admonishing me for acting as a *pro se* defendant, you interjected insulting remarks about me to the judge. You are supposed to act in my best interests. I included you in all of my emailed motions to the court. You had ample information to object to the judge's expressed bias against me for my *pro se* motions. But you didn't act in my best interests. Your insulting remarks were in the prosecuting attorney's and the judge's best interests to proceed to trial when my efforts were to have the case dismissed with prejudice for lack of credible evidence under the Doctrine of *Nulla Poena Sine Lege* and have the record expunged. You knew that and did nothing to further my efforts. For that, you are fired. I will act in my own interests as *pro se*. This makes it official.

Please return the arrest ticket to me because it is my evidence of police incompetence, malicious prosecution, and abuse of procedure.

ITEM 2. DON RANEY. Your email in question is included on page 2 of this letter. Eric Kennedy is no longer my court-appointed attorney. I have been and I am still acting *pro se*. You must now communicate directly with me.

ITEM 3. STARK LIGON. Please include this letter with my complaint. If Don Raney's action deleting my "*Kensett Court is a Kangaroo Court*" email from his files and from the Kensett Court's files are criminal offenses as I believe they are then please consider this letter as my criminal complaint for obstruction of justice.

L. KENSET COURT'S PROSECUTING ATTORNEY'S EMAIL IS EVIDENCE OF OBSTRUCTING JUSTICE AGAINST A *PRO SE* DEFENDANT IS A CRIMINAL OFFENSE

Subject: **RE: KENSETT COURT IS A KANGAROO COURT**

From: Don Raney (d_raney@lightlelawfirm.net)

To: [Eric Kennedy, Court Appointed Attorney] dalaw@centurytel.net; [Court Clerk] calberson.kensett@gmail.com;

Cc: [Don Hamrick] ki5ss@yahoo.com;

Date: Tuesday, May 9, 2017 6:47 AM

Erick,

I am sure you are aware of this email since you were on the email list **but since you are Mr. Hamrick's court appointed attorney**[30] I only need to be communicating with you about the matter I wanted you to know that **I have simply deleted it from my system**[31] as I indicated I would do in the last court session.

Don Raney

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[30] My emphasis.

[31] My emphasis. Deleting a document from the court's system authored by a *pro se* defendant is an act of obstructing justice which is a criminal offence. It proves bias against a *pro se* defendant's right to represent himself. The question here is: "*Did Don Raney delete the email and the attachment titled "Kensett Court is a Kangaroo Court" without reading it?"* I suspect that is exactly what he did. Because if he did read it he would have known the emailed document was from me as a *pro se* defendant since the title of the motion included the phrase: "Notice: I am Proceeding as *Pro Se*."

M. CITING JAMES E. PFANDER AND NASSIM NAZEMI, *THE ANTI-INJUNCTION ACT AND THE PROBLEM OF FEDERAL-STATE JURISDICTIONAL OVERLAP*, 92 TEXAS LAW REVIEW 1 (2013).

ABSTRACT: Ever since Congress decided in 1789 to confer jurisdiction on lower federal courts over matters that the state courts could also hear, the nation has faced the problem of how to allocate decision-making authority between the two court systems. Central to this body of concurrency law, the federal Anti-Injunction Act of 1793 (AIA) was enacted to limit the power of the federal courts to enjoin state court proceedings. Justice Felix Frankfurter decisively shaped our understanding of those limits, concluding in Toucey v. New York Life Insurance Co. that the statute absolutely barred any such injunction. Much of the law of federal–state concurrency has been predicated on Toucey's account.

In this Article, we offer a new account of the AIA that challenges prior interpretations. Rather than a flat ban on injunctive relief, we show that the AIA was drafted against the backdrop of eighteenth century practice to restrict "original" federal equitable interference in ongoing state court proceedings but to leave the federal courts free to grant "ancillary" relief in the nature of an injunction to protect federal jurisdiction and to effectuate federal decrees. It was this ancillary power that gave rise to the exceptions that Toucey decried and Congress restored in its 1948 codification.

We draw on our new account of the 1793 and 1948 versions of the Act to address current problems of jurisdictional overlap. Among other things, we raise new questions about the much maligned Rooker–Feldman doctrine; offer a new statutory substitute for the judge-made doctrine of equitable restraint; and suggest new ways to harmonize such abstention doctrines as Burford and Colorado River. Curiously, answers to these (and other) puzzles were hiding in the careful decision of the 1793 drafters to restrict only the issuance of "writs of injunction" and otherwise to leave federal equitable power intact.

CONCLUSION

Much of the lore surrounding the Anti-Injunction Act of 1793 turns out, on close inspection, to be wrong. Although the Act was designed to lessen friction between state and federal courts, and did impose an important restriction on federal interposition, it did not foreclose all injunctions to stay state court proceedings. Rather, as we have seen, the Act barred only original applications for a "writ of injunction" and left the federal courts free to grant various forms of ancillary injunctive relief as needed

to defend their jurisdiction or effectuate their decrees.[32] Exceptions to the Act arose in the nineteenth century less as acts of judicial hubris than as an elaboration of the congressional balance between the preservation of state court autonomy and the defense of federal authority.[33]

In 1941, Justice Felix Frankfurter almost single-handedly transformed the statute into a formidable barrier to any sort of federal interposition.[34] Characterizing the Act as a flat ban on equitable interference, Justice Frankfurter's opinion for the Toucey Court overruled the established relitigation exception and challenged many more. Although Congress responded by rejecting much of Justice Frankfurter's gloss and restoring some disputed exceptions, jurists and scholars continue to see the AIA through Justice Frankfurter's eyes. Thus, the Court continues to treat the AIA as a broad constraint and to interpret the exceptions in narrow terms.

Indeed, the Court frequently ascribes iconic status to the Act as an early statement of the value of a restrained federal judicial role. Our account uproots these settled understandings of the origin and evolution of the Act. We trace the statute's origins to a time when equitable interposition represented a commonplace feature of the separation of courts of law and equity.[35] At the same time, we suggest that the Act's distinction between original and ancillary interposition still has important lessons to teach about the coordination of concurrent jurisdiction. The 1948 Act, after all, restored that distinction by foreclosing injunctions except where the federal court acted to defend its jurisdiction or its judgments.

We hesitate to criticize the Court too sharply for having failed to attend to an original–ancillary distinction that the passage of time has obscured from view. But we do believe that many of the Court's most controversial decisions have grown out of a failure to understand what the Act banned and what it left alone. Toucey marginalized ancillary injunctions; Rooker–Feldman failed to heed the AIA's ban on original writs; Younger and Mitchum self-consciously transformed a statutory limit on federal injunctive relief into a body of federal common law that, ironically, drew inspiration from the Act but was not bound by its

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[32] *See supra* subpart I(C). The AIA as a Bar to Original Bills of Injunction

[33] *See supra* subpart I(D). Ancillary Injunctions and the Rise of AIA "Exceptions"

[34] *See Toucey* v. *N.Y. Life Ins. Co.*, 314 U.S. 118, 129, 139 (1941). Justice Frankfurter drew on a body of scholarship that advanced similar arguments against the legitimacy of judicial exceptions to the AIA.

[35] *See supra* subpart I(A). A Brief Primer on the Writ of Injunction to Stay Legal Proceedings

specific terms. The resulting series of decisions needlessly complicates the doctrine of equitable restraint and ignores available legislative guideposts.

We offer a simple, yet radical, solution. We propose to reclaim the AIA's original–ancillary distinction and use it to define the power of federal courts to enjoin state court proceedings. While much has changed in over two centuries of American legal development, the distinction remains surprisingly useful as a measure of the propriety of federal interposition. Along the way, we suggest solutions to many recurring problems of concurrent jurisdiction. By restoring the Act to its proper place in the coordination of jurisdictional overlap, our approach would strike a modest blow for the restoration of congressional primacy in defining the broad contours, if not the particular applications, of concurrent federal judicial authority.

N. CITING JAMES E. PFANDER & NASSIM NAZEMI, *MORRIS* V. *ALLEN* AND THE LOST HISTORY OF THE ANTI-INJUNCTION ACT OF 1793, 108 NORTHWESTERN UNIVERSITY LAW REVIEW 187 (2014).

INTRODUCTION

While a variety of different themes crop up in historical treatments of the Anti-Injunction Act of 1793 (AIA),[36] scholars agree that the statute's origins are "shrouded in obscurity" or "lost in the mists of history."[37] This narrative of historical obscurity informs the work of those, like Professor Charles Warren, who viewed the AIA's declaration that no "writ of

[36] Act of Mar. 2, 1793, ch. 22, § 5, 1 Stat. 333, 334–35. The modern AIA is codified at 28 U.S.C. § 2283 (2006).

[37] *See, e.g.*, *Mitchum* v. *Foster*, 407 U.S. 225, 232–33 (1972) (footnote omitted) ("The precise origins of the legislation are shrouded in obscurity, but the consistent understanding has been that its basic purpose is to prevent 'needless friction between state and federal courts.'" (quoting *Okla. Packing Co.* v. *Gas Co.*, 309 U.S. 4, 9 (1940))); *17A CHARLES ALAN WRIGHT ET AL., FEDERAL PRACTICE AND PROCEDURE § 4221* (3d ed. 2011) (footnote omitted) ("Why Congress [adopted the AIA] in 1793 is lost in the mists of history. There is no record of debate in Congress about it, and historians have only been able to speculate inconclusively about the motivation for the statute."); Edgar Noble Durfee & Robert L. Sloss, *FEDERAL INJUNCTION AGAINST PROCEEDINGS IN STATE COURTS: THE LIFE HISTORY OF A STATUTE*, 30 MICH. L. REV. 1145, 1145 (1932) ("We know next to nothing of the parliamentary history of this statute."); Telford Taylor & Everett I. Willis, *THE POWER OF FEDERAL COURTS TO ENJOIN PROCEEDINGS IN STATE COURTS*, 42 Yale L. J. 1169, 1170–72 (1933) (describing the history as a matter of "some uncertainty").

injunction" shall be issued to stay proceedings in state courts[38] as a "firm bar" against federal court interference.[39] Similar claims of obscurity animate the work of such historians as William Mayton and Wythe Holt, both of whom regard the AIA as limiting only the power of a single circuit-riding Justice and as leaving the injunctive power of federal courts entirely intact.[40] The Supreme Court itself appears to have subscribed to the narrative of historical inaccessibility even as it continues to work out a complex body of law to govern the relations between state and federal courts.[41]

The relatively thin historical record has left ample room for scholarly theorizing.[42] Some view the AIA as the brainchild of its draftsman, Connecticut Senator (and future Chief Justice) Oliver Ellsworth, who

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[38] § 5, 1 Stat. at 335.

[39] Charles Warren, *FEDERAL AND STATE COURT INTERFERENCE*, 43 Harv. L. Rev. 345, 367 (1930) ("[T]he very explicit words of the statute have been considerably stretched by the Court so as to admit of implied exceptions, and substantial breaches have been made in this apparently firm bar against federal interference.").

[40] See Wythe Holt & James R. Perry, Writs and Rights, "Clashings and Animosities": The First Confrontation Between Federal and State Jurisdictions, 7 Law & Hist. Rev. 89 (1989); William T. Mayton, Ersatz Federalism Under the Anti-Injunction Statute, 78 Colum. L. Rev. 330, 332 (1978) ("Instead of erecting a bar applicable to all federal courts, Congress in 1793 seems to have enacted only a law prohibiting a single Justice of the Supreme Court from enjoining a state court proceeding."); see also John Daniel Reaves & David S. Golden, Commentary, The Federal Anti-Injunction Statute in the Aftermath of Atlantic Coast Line Railroad, 5 Ga. L. Rev. 294, 297–98 (1971).

[41] *See Mitchum*, 407 U.S. at 232 (describing the origins of the Act as "shrouded in obscurity"). Nonetheless, the Court has drawn on the AIA in working out problems of federal–state concurrency. *See, e.g.*, *Younger* v. *Harris*, 401 U.S. 37, 43 (1971) ("Since the beginning of this country's history Congress has, subject to few exceptions, manifested a desire to permit state courts to try state cases free from interference by federal courts. . . . A comparison of the 1793 Act with 28 U.S.C. § 2283, its present-day successor, graphically illustrates how few and minor have been the exceptions granted from the flat, prohibitory language of the old Act.").

[42] This dearth of legislative history is exacerbated by the fact that the Supreme Court did not decide a case in express reliance on the AIA until 1872. *See Watson* v. *Jones*, 80 U.S. (13 Wall.) 679, 719–20 (1872). Notably, the Court has sometimes treated its 1807 decision in *Diggs & Keith* v. *Wolcott*, 8 U.S. (4 Cranch) 179 (1807), as an early application of the AIA. See, e.g., *Toucey* v. *N.Y. Life Ins. Co.*, 314 U.S. 118, 134 & n.5 (1941); *Peck* v. *Jenness*, 48 U.S. (7 How.) 612, 625 (1849).

was known for his general antipathy to equity.[43] Others have linked the AIA to Edmund Randolph, the Attorney General whose lengthy 1790 Report proposed broad reforms to the Judiciary Act of 1789 and included a provision (or two) much like the AIA.[44] But some scholars have dismissed the Randolph connection on two grounds: that Congress did not, as a general matter, take up his reforms, and that the particular provision that some portray as a precursor to the AIA was part of a project (aimed at more completely separating the state and federal courts) that Congress chose not to implement.[45]

An equally intriguing and problematic suggestion appears in the editorial notes of the indispensable Supreme Court Documentary History project.[46] The editors of the project hypothesize that the AIA may have sought to calm the waters in the wake of a particularly controversial petition for certiorari in *Morris* v. *Allen*, a debt-related dispute between Founding Era banker Robert Morris and a group of North Carolina merchants. Morris sought to remove the case to federal court after what he viewed as a series of flawed state court proceedings—a litigation strategy that resulted in an early clash

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[43] *See* Telford Taylor & Everett I. Willis, *THE POWER OF FEDERAL COURTS TO ENJOIN PROCEEDINGS IN STATE COURTS*, 42 Yale L.J. 1169, at 1170–72 (1933) (suggesting "that the inclusion of the injunction provisions [in the 1793 Act] was the result in part of then prevailing prejudices against equity jurisdiction" and observing that "Ellsworth had a pronounced dislike for chancery practice"); id. (observing that Ellsworth "at one time joined forces with anti-federalists in urging an amendment to the first Judiciary Act of 1789 which would have required that the facts in federal equity suits be found by a jury"); see also *WILLIAM MACLAY, SKETCHES OF DEBATE IN THE FIRST SENATE OF THE UNITED STATES*, in 1789–90–91, at 94, 99 (George W. Harris ed., Harrisburg, Lane S. Hart Printer & Binder 1880) (observing that, during debates over the Judiciary Act of 1789, Ellsworth found himself opposing Morris—then a Senator from Pennsylvania—on that very topic: whereas Ellsworth was "generally . . . for limiting the chancery powers," Morris "seemed almost disposed to join" members of the House who sought "to push the power of Chancery as far as possible").

[44] See Edmund Randolph, Report Of The Attorney-General To The House Of Representatives (Dec. 31, 1790) [hereinafter Randolph's Report], reprinted in 4 The Documentary History Of The Supreme Court Of The United States, 1789–1800, at 122, 127, 162–63 (Maeva Marcus et al. eds., 1992) [hereinafter DHSC]; Charles Warren, Federal and State Court Interference, 43 Harv. L. Rev. 347, (1930) (arguing that the AIA was "undoubtedly" adopted in consequence of Randolph's Report).

[45] See Edmund Randolph, Report Of The Attorney-General To The House Of Representatives at 122–27 (Dec. 31, 1790).

[46] Reprinted in 4 The Documentary History Of The Supreme Court Of The United States, 1789–1800, at 122, 127, 162–63.

between the state and federal courts in North Carolina.[47] But that hypothesis presents a puzzle: the Morris controversy arose from the use of certiorari to remove an action from state to federal court, posing the question why the drafters of the Act would ban the issuance of writs of injunctions to address the concern. As we will see, certiorari was a common law process that effected the removal of an action from an inferior to a superior court.[48] A statute (like the AIA) that bars the federal courts from issuing writs of injunction to state courts would not foreclose issuance of writs of certiorari if otherwise appropriate, and it would not foreclose the use of a body attachment (contempt) as a mode of enforcing obedience to the certiorari. Nor would a ban on injunctions address the implication of state court inferiority embedded in the federal courts' reliance on certiorari—reliance that helped to inflame passions in North Carolina following Morris.14[49]

Our examination of the AIA has revealed an important textual wrinkle that we think will clarify the meaning and purpose of the Act. As noted above, the AIA prohibited the issuance of "writs of injunction" to stay proceedings in state courts and seemingly brooks no exception.[50] But when we view the Act's reference to "writs of injunction" against the backdrop of practice in the Anglo-American Courts of Chancery, we find an important distinction between original and ancillary proceedings. Most suits brought in equity to stay proceedings at law were commenced through the submission of an original bill of injunction, which was served on the opposing party along with a subpoena, and which would (if successful) result in the issuance of a writ of injunction against further proceedings.[51] In addition to these original actions for writs of

[47] Among other important events, the materials offer a more detailed portrait of the controversial attempt of Morris, a prominent Pennsylvania merchant and financier, to remove litigation from state to federal court in North Carolina. See id.; see also Wythe Holt & James R. Perry, *WRITS AND RIGHTS, "CLASHINGS AND ANIMOSITIES": THE FIRST CONFRONTATION BETWEEN FEDERAL AND STATE JURISDICTIONS*, 7 Law & Hist. Rev. 89 (1989).

[48] See Harold Weintraub, English Origins of Judicial Review by Prerogative Writ: Certiorari and Mandamus, 9 N.Y.L.F. 478, 504 (1963).

[49] See Declaration of the Judges of the Superior Court of North Carolina (Nov. 19, 1790), in 2 The Documentary History Of The Supreme Court Of The United States, 1789–1800, at 111, 111–12 [hereinafter Declaration of North Carolina Judges].

[50] *See* Act of Mar. 2, 1793, ch. 22, § 5, 1 Stat. 333, 335.

[51] *See, e.g.*, *LECTURE LVI: OF INJUNCTION CAUSES*, in 3 Richard Wooddesson, *LECTURES ON THE LAW OF ENGLAND* 158, 158 (W.R. Williams ed., Philadelphia, John S. Littell 1842) (footnotes omitted) ("Injunction causes are those, in which the bill prays, besides the writ of subpoena to compel the defendant to appear and answer, a

injunction, courts of equity also entertained motions or petitions for the issuance of ancillary relief in the nature of an injunction to protect their jurisdiction and ensure the effectiveness of their decrees.[52] From Chancery's perspective, the original bill for a writ of injunction initiated an action and brought parties before the court with proper notice through service.[53] The ancillary injunction on motion, by contrast, operated on those who were already parties to an equitable proceeding and were subject to equitable control.[54] We think the AIA was drafted to pick up this distinction, barring only original applications for the "writ of injunction" but leaving federal courts of equity free to grant ancillary relief, including injunctive relief, against state court proceedings that threatened prior federal litigation.

We tell the story of the AIA in three parts. Part I briefly summarizes scholarly assessments of the Act's origins. Part II focuses on the Morris case, using that litigation as a window into the distant and yet somewhat familiar world of eighteenth-century litigation. Part II also explores the strategic challenges that confronted the lawyers for Robert Morris as they tried to steer the case into a federal forum, and it recounts the reaction of the state court to the federal certiorari. Part III closely examines the language of the AIA in light of the equitable distinction between original bills for writs of injunction and ancillary proceedings to effectuate a decree. Part III also shows that the distinction helps to clarify most (but not all) confusing features of anti-suit injunctions in the nineteenth century. A brief conclusion follows.

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writ also of injunction, inhibiting him from suing the complainant at common law . . . . For, generally, it is requisite, that he who seeks an injunction, should have a bill filed in court at the time. Yet in cases specially circumstanced, this has been dispensed with.").

[52] *See, e.g., Morrice* v. *Bank of Eng.*, (1736) 36 Eng. Rep. 980 (Ch.); 3 Swanst. App. 573; Cas. t. Talbot 217, 226; 2 Bro. P.C. (Toml. ed.) 465.

[53] *See* John Wyatt, *THE PRACTICAL REGISTER IN CHANCERY* 237 (London, A. Strahan 1800) ("No injunction for stay of suit at law shall be granted, revived, dissolved, or stayed, upon a petition, nor any injunction of any other nature pass by order upon petition, without notice and a copy of the petition first had by, or given to the other side . . . .").

[54] *See, e.g.*, Morrice*, CAS. T. TALBOT* at 223 (suggesting that the Court viewed the power to grant an injunction against enforcement of judgments as essential to carry its jurisdiction into effect).

CONCLUSION

By the mid-twentieth century, the original–ancillary distinction that the eighteenth-century drafters had embedded in the AIA's limiting reference to "writs of injunction" had disappeared from view. A variety of factors combined to consign the statutory distinction to "obscurity." Law and equity had been merged; the original bill of injunction had given way to a single "civil action" that was meant to provide an all-purpose vehicle for the assertion of claims in federal court.[55] As a result, courts of equity no longer routinely entertained original bills of injunction to stay proceedings in the courts of law pending the resolution of equitable defenses; such equitable defenses as fraud and mistake were available in the context of a single merged civil action. In short, changes in the nature of legal practice made a once-familiar feature of equity remote and inaccessible.

These changes were complete in 1941, when Justice Frankfurter encountered the AIA in the well-known case of Toucey v. New York Life Insurance Co.[56] Frankfurter was a brilliant legal theorist and a close student of the history of the federal court system, but he had precious little experience in the practice of law.[57] Acting on progressive impulses,[58] Frankfurter used the opportunity presented in Toucey to

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[55] *See* Fed. R. Civ. P. 2 (proclaiming the advent of a single, all-purpose "civil action"). The rules took effect in 1938.

[56] 314 U.S. 118 (1941).

[57] For a brief biography describing Frankfurter's career as a Harvard law professor and progressive advocate of judicial restraint before his appointment to the bench, see Noah Feldman, Scorpions: *THE BATTLES AND TRIUMPHS OF FDR'S GREAT SUPREME COURT JUSTICES* 10–15 (2010). Justice Frankfurter's many works included a casebook on federal jurisdiction and a history of the Supreme Court. See Felix Frankfurter & James M. Landis, *THE BUSINESS OF THE SUPREME COURT* (1928). Justice Frankfurter graduated from law school in 1906 and worked at a law firm in New York City for only a few months before joining the U.S. Attorney for the Southern District of New York as Henry Stimson's assistant, where he worked primarily on criminal matters. In 1911, Justice Frankfurter went to Washington, D.C., as Stimson's assistant in the War Department. He remained in government service, as Stimson's assistant, until he accepted an appointment as a professor at the Harvard Law School in 1914. At Harvard, Justice Frankfurter specialized in administrative law, jurisdiction, and the Supreme Court's special place in American constitutional government. For accounts, *see* H.N. HIRSCH, THE ENIGMA OF FELIX FRANKFURTER 22–41 (1981); Helen Shirley Thomas, *FELIX FRANKFURTER: SCHOLAR ON THE BENCH* 7–13 (1960).

[58] See Edward A. Purcell, Jr., Brandeis And The Progressive Constitution: Erie, The Judicial Power, And The Politics Of The Federal Courts In Twentieth-Century America (2000). Justice Frankfurter came by his distrust of equity honestly, having

rethink the AIA. To Frankfurter, it was obvious that the ban on writs of injunction had been intended, whatever the Act's origins, as an absolute barrier to federal equitable interposition in pending state court proceedings. The exceptions that courts had developed over time were discarded; they were simply the product of "loose" language and a regrettable lack of judicial restraint.[59]

Time, to some extent, has marched on. Congress restored the exceptions to the Act in a 1948 codification of the AIA that survives to this day and authorizes federal courts to stay state court proceedings in aid of their jurisdiction and to effectuate their judgments.[60] But Frankfurter's account continues to shape conventional understanding of the Act. The Court today regards the AIA as an important barrier to equitable interposition and treats the exceptions as subjects of narrow interpretation.[61] While the Court neutralized the AIA to some extent in constitutional litigation,[62] the doctrine of equitable restraint draws on Frankfurter's conception of the Act in defining limits on federal power to stay pending criminal proceedings.[63]

Our account of the history of the AIA calls Frankfurter's view into question. The political context in which the AIA was adopted suggests that the Act sought to tackle an important but limited problem that the North Carolina litigation in Morris v. Allen had uncovered. Drawing on

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worked as a law professor to end the federal equitable role in labor disputes, see generally Felix Frankfurter & Nathan Greene, The Labor Injunction (1963), and having criticized the expanded federal judicial role occasioned by the rise of substantive due process, see generally Felix Frankfurter, Exit the Kansas Court, New Republic, June 27, 1923, in Felix Frankfurter On The Supreme Court: Extrajudicial Essays on The Court and The Constitution 140 (Philip B. Kurland ed., 1970). He also worked to subject federal equity to the discipline of the Erie doctrine, holding in Guaranty Trust Co. v. York, 326 U.S. 99 (1945), that suits brought in equity were nonetheless subject to state statutes of limitation. See Kristin A. Collins, "A Considerable Surgical Operation": Article III, Equity, and Judge-Made Law in the Federal Courts, 60 Duke L.J. at 336–43 (2010) (arguing that Justice Frankfurter "dismissed a long line of precedent that suggested a different view of federal equity power" and instead used Guaranty Trust as an opportunity to limit the use of federal equitable injunctions as "a means of suppressing labor strikes").

[59] *Toucey*, 314 U.S. at 133.

[60] *See* 28 U.S.C. § 2283 (2006).

[61] *See, e.g., Smith* v. *Bayer Corp.*, 131 S. Ct. 2368 (2011).

[62] *See Mitchum* v. *Foster*, 407 U.S. 225 (1972).

[63] *See Younger* v. *Harris*, 401 U.S. 37, 43–44 (1971).

eighteenth-century chancery practice, with its distinction between original process for "writs of injunction" and ancillary relief to defend federal power, we have proposed a more nuanced sense of what the AIA meant to prohibit and to leave in place. The limiting textual reference to writs of injunction both confirms the Act's connection to the Morris controversy and explains (and to some extent justifies) the judicial recognition of AIA exceptions in the nineteenth century.

And yet the historical puzzle remains. Frankfurter, the great apostle of judicial restraint, acted to foreclose what he perceived as judge-made exceptions to a statute that he regarded as self-evidently absolute in its prohibition. Viewed from the perspective on the Act's origins that we develop here, Frankfurter begins to look like something of an activist himself. When we revisit his Toucey opinion with a better appreciation of the origins of the 1793 Act, Frankfurter appears to have acted as much from a distrust of federal equity as from a desire to honor the intentions of Congress. Dissenting in Toucey, Justice Reed gave voice to a concern with Justice Frankfurter's headlong decision to end the relitigation exception. Reed explained "that courts of equity had long exercised the power to entertain bills to carry their decrees into execution by injunction against the parties."[64] He could not believe that Congress would draft a statute in which "[s]uch needed powers would . . . be lightly withdrawn."[65] We find it striking that the powers to which Justice Reed referred were the very ones Congress restored to the statute in 1948.[66] We find it all the more striking that they had been hiding in plain sight all along, in the language of the carefully drafted text of a much misunderstood piece of early republic legislation.

[64] *See Toucey*, 314 U.S. at 143 (Reed, J., dissenting).

[65] *Id.*

[66] *See* 28 U.S.C. § 2283 (1948).

9. REASONS FOR GRANTING THE PETITION

Citing Kathryn Watson, *TRUMP SAYS THERE'S A "LITTLE BIT OF A REVOLUTION GOING ON IN CALIFORNIA" OVER "SANCTUARY CITIES*," CBS News, April 19, 2018. (Los Alamitos in Orange County recently voted to exempt itself from California's so-called sanctuary laws that make it difficult for the federal government to carry out immigration laws. San Diego's all-Republican Board of Supervisors voted to officially support the Trump administration's lawsuit against the California laws.)[67]

Today's news corroborates Frederick Douglass' August 3, 1857 West India Emancipation speech at Canandaigua, New York, on the twenty-third anniversary of the event. See my INTRODUCTION at SECTION B. THE STATE OF UNCONSTITUTIONAL CONDITIONS, pages 13–15 of this Petition for Writ of Certiorari. From that speech is the following excerpt that I construe as a cause for a revolution today as noted by President Trump above.

> *"Find out just what any people will quietly submit to and you have found out the exact measure of injustice and wrong which will be imposed upon them, and these will continue till they are resisted with either words or blows, or with both. The limits of tyrants are prescribed by the endurance of those whom they oppress."*

The more things change the more they stay the same. Many things remain consistent even as changes happen. The phrase is often said in a resigned or sarcastic tone.[68]

The same holds true for judicial bias in the Federal Courts, even at the U.S. Supreme Court. *See* APPENDIX 4. John Paul Stevens, *REPEAL THE SECOND AMENDMENT*, The New York Timers | Opinion | Op-Ed Contributor, March 27, 2018, page 82. See *INTRODUCTION*, Section D. *PLAIN ERROR REVIEW OF MY SECOND AMENDMENT DENIAL, (U.S. SUPREME COURT CASE), NO. 03–145*, pages 16–24. See especially Subsection vii. *MY DEMAND FOR WRIT OF ERROR CORAM NOBIS OF HAMRICK V. BUSH, U.S. SUPREME COURT CASE NO. 03-145 AS A RELATED CASE OF JUDICIAL ERROR* in this FALSE CONVICTION appeal for a Writ of Certiorari, page 24.

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[67] www.cbsnews.com/news/trump-says-theres-a-little-bit-of-a-revolution-going-on-in-california-over-sanctuary-cities/

[68] https://idioms.thefreedictionary.com/the+more+things+change%2C+the+more+they+stay+the+same

TEXT OF THE OATHS OF OFFICE FOR SUPREME COURT JUSTICES[69]

THE JUDICIAL OATH

The origin of the second oath is found in the Judiciary Act of 1789, which reads "*the justices of the Supreme Court, and the district judges, before they proceed to execute the duties of their respective offices*" to take a second oath or affirmation. From 1789 to 1990, the original text used for this oath (1 Stat. 76 § 8) was:

> "I, _________, do solemnly swear or affirm that I will administer justice **without respect to persons**, and **do equal right to the poor and to the rich**, and that **I will faithfully and impartially discharge and perform all the duties incumbent upon me** as _________, *according to the best of my abilities and understanding, agreeably to the constitution and laws of the United States*. So help me God."

In December 1990, the Judicial Improvements Act of 1990 replaced the phrase "*according to the best of my abilities and understanding, agreeably to the Constitution"* with "*under the Constitution*." The revised Judicial Oath, found at 28 U. S. C. § 453, reads:

> "I, _________, do solemnly swear (or affirm) that I will administer justice **without respect to persons**, and **do equal right to the poor and to the rich**, and that **I will faithfully and impartially discharge and perform all the duties incumbent upon me as _________ under the Constitution and laws of the United States**. So help me God."

THE COMBINED OATH

Upon occasion, appointees to the Supreme Court have taken a combined version of the two oaths, which reads:

> "I, _________, do solemnly swear (or affirm) that I will administer justice **without respect to persons**, and **do equal right to the poor and to the rich**, and that **I will faithfully and impartially discharge and perform all the duties incumbent upon me as _________ under the Constitution and laws of the United States**; and that **I will support and defend the Constitution of the United States against all enemies, foreign and domestic**; that **I will bear true faith and allegiance to the same**; that I take this

[69] https://www.supremecourt.gov/about/oath/textoftheoathsofoffice2009.aspx

> obligation freely, without any **mental reservation or purpose of evasion**; and that **I will well and faithfully discharge the duties of the office on which I am about to enter**. So help me God."

But see INTRODUCTION, Section D, Subsection iv. THE PSYCHOLOGY OF JUDICIAL BIAS DISGUISED AS OPINIONS VIOLATING THE CONSTITUTIONAL RIGHTS (MY ALLEGATION), page 20–21 for the implication that U.S. Supreme Courts do not necessarily remain faithful or impartial to the U.S. Constitution regarding the Second Amendment, or even other rights elsewhere in the U.S. Constitution.

See Appendix 5 *MY POLITICAL POEMS SLAMMING THE U.S. SUPREME COURT FOR THEIR DUPLICITY, THEIR MENDACITY, AND KARKISTOCRACY (GOVERNMENT BY THE WORST PEOPLE)*[70] for their complicitness in mass murder in Gun Free Zones resulting from their excessively restrictive Gun Control Opinions. And see Subsection v. *PUBLIC CORROBORATION FOR NATIONAL OPEN CARRY IN 2018*, page 22–24 for YouTube videos on what I construe as a growing rebellion or public revolution not only over gun control laws in general, but specifically against former U.S. Supreme Court Justice John Paul Stevens' New York Op-Ed, titled, *REPEAL THE SECOND AMENDMENT.* Former Justice John Paul Stevens' article, in my opinion, is a confession that he did, in fact, have mental reservations for the purpose of evading his faithful and impartial duty to discharge and perform his duties and obligations under the Constitution and the laws of the United States when he became a U.S. Supreme Court justice. In effect, he committed fraud and maybe even treason against the U.S. Constitution, in my opinion.

This *PETITION FOR A WRIT OF CERTIORARI* must be granted for various compelling reasons noted in this *PETITION FOR PLAIN ERROR REVIEW AND WRIT OF ERROR CORAM NOBIS* because of the *UNCONSTITUTIONAL CONDITIONS* imposed on the People of the United States by the U.S. Government generally and specifically by State of Arkansas and the Kensett District Court in Arkansas for my FALSE CONVICTION that my jeopardize my Second Amendment rights and my efforts to restore my name and reputation because of a crime that I did not commit.

10. RELIEF SOUGHT

(1). **MY FIRST PRIORITY FOR RELIEF** is a court order to the FBI Public Corruption Division, Little Rock, to Investigate Prosecutor Don Raney, Judge Mark Derrick, and Judge Milas Hale for violation of my federal and state constitutional rights, and federal and state

[70] https://en.wikipedia.org/wiki/Kakistocracy

statutory rights under *18 U.S. CODE § 241 CONSPIRACY AGAINST RIGHTS* and *18 U.S. CODE § 242 DEPRIVATION OF RIGHTS UNDER COLOR OF LAW* resulting in my *FALSE CONVICTION.*

(2). **SECOND:** Determine my Standing to Sue for Damages under the Federal Tort Claims Act, 28 U.S. Code § 2674 Liability of United States, as to the matter of the serial dismissals of my Second Amendment cases in federal courts and for the dismissal of my federal civil complaint for 28 U.S. Code § 2283 *STAY OF STATE COURT PROCEEDINGS* and 28 U.S. Code § 1455(a) *PROCEDURE FOR REMOVAL OF CRIMINAL PROSECUTIONS* from the Kensett District Court, Arkansas.

(3). **ULTIMATELY:** Permanent Injunctive Relief:

- Overturn/Reverse my false conviction with prejudice.
- Expunge my record with prejudice.

(4). Declaratory Relief as to 42 U.S. Code § 1988 PROCEEDINGS IN VINDICATION OF CIVIL RIGHTS that the Defendants' actions alleged herein violated my First Amendment freedom of religion and my rights as a family-based, live-in caregiver to my own mother and step-father under the *PRIVILEGES AND IMMUNITIES CLAUSE* to the *U.S. CONSTITUTION* and the *CONSTITUTION OF THE STATE OF ARKANSAS* under *18 U.S. CODE § 241 CONSPIRACY AGAINST RIGHTS* and *18 U.S. CODE § 242 DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.*

(7). Declare that my rights were violated under the following laws.

42 U.S. Code § 1981(a) & (c) EQUAL RIGHTS UNDER THE LAW

42 U.S. Code § 1983 CIVIL ACTION FOR DEPRIVATION OF RIGHTS

42 U.S. Code § 1985(2) & (3) CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS

42 U.S. Code § 1986 ACTION FOR NEGLECT TO PREVENT

42 U.S. Code § 1988 PROCEEDINGS IN VINDICATION OF CIVIL RIGHTS

18 U.S. Code § 241 CONSPIRACY AGAINST RIGHTS

18 U.S. Code § 242 DEPRIVATION OF RIGHTS UNDER COLOR OF LAW

(8). Award such other and further relief the Court deems appropriate and just.

Submitted

Don Hamrick
322 Rouse Street
Kensett, Arkansas 72082
Email: ki5ss@yahoo.com

APPENDIX 1. TRANSCRIPT OF THE ARREST VIDEO

DATE: JANUARY 18, 2017

TIME: 6:18 PM (NIGHT)

SCENE: FRONT PORCH AT 322 ROUSE STREET, KENSETT.

NOTE: AT THE START OF THE VIDEO PATSY HAYS IS STANDING AT THE FRONT DOOR HOLDING THE GLASS DOOR OPEN TO MOBILE HOME.

The first 20 seconds of the arrest video is crucial evidence proving my innocence.

00m:00s | OFFICER TO DON HAMRICK | Do you live here?

00m:02s | HAMRICK | Yes. **I'm their caregiver**. **I do everything for them**.

00m:06s | PATSY HAYS | **Self-appointed**.

00m:07s | DON HAMRICK | **No**. **You asked me to come here**. 00m:09s | PATSY HAYS | **I want you out**.

00m:11s | DON HAMRICK: (Directing his next comment to the officers) **All right. Now it's up to you to believe her or me**. But under the situation I'd like to take her to the hospital to get her checked out for Alzheimers.

00m:21s | UNIDENTIFIED OFFICER | Alright. Thanks for talking to me.

00m:22s | DON HAMRICK | Yep.

00m:24s | OFFICER WEARING BODY CAM | Here. Stay out here.

00m:27s | DON HAMRICK | Now this is the letter I got from ARCare today as describing her as having signs of Alzheimers. And I've studied her. And I've done the research. And I got her pegged[71] at Stage 4 for Alzheimers.

00m:43s | OFFICER WEARING BODY CAM | I mean you're not a doctor so you can't do that.[72]

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[71] MY EXPLANATION: Pegged = guess. I can guess. I doctor can more accurately make the assessment.

[72] MY EXPLANATION: Here the officer makes a judgmental statement that violates my rights as a family caregiver to my own mother. The officer infers that I cannot study the American Psychiatric Association, *DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS* (DSM–5) [www.psychiatry.org/psychiatrists/practice/dsm] or the subject of Alzheimers to determine my mother's mental state of mind so that I can take better care of her or to get her the medical care she needs. My arrest caused a two or three-week delay in getting her the medical treatment she needed. Since I was in the

00m:45s ❙ DON HAMRICK ❙ I can do my research.

00m:46s ❙ OFFICER WEARING BODY CAM ❙ Yeah but you can't peg her at Stage

00m:49s ❙ UNIDENTIFED OFFICER1 ❙ Do you have something that says that like you have the authority over her to be able to pay the bills and to do something with their . . . / [power of attorney] [from an unidentified officer]

00m:57s ❙ DON HAMRICK ❙ That's what I was working on today. [sound of the officer wearing the body cam spitting with the force of a trajectory][73] And the power of attorney . . .

01m:01s ❙ UNIDENTIFIED OFFICER1❙ . . . That's what I'm talking about. 01m:02s ❙ DON HAMRICK ❙ I (hesitating) . . .

01m:04s ❙ FEMALE OFFICER ❙ That has to be drawn up by a lawyer.[74]

01m:06s ❙ UNIDENTIFIED OFFICER1❙ Yeah

01m:06s ❙ DON HAMRICK ❙ Okay. I didn't know that.

01m:07s ❙ UNIDENTIFIED OFFICER1 ❙ Yeah

01m:07s ❙ DON HAMRICK ❙ But now I will.

01m:10s ❙ DON HAMRICK ❙ The thing is . . .

01m:11s ❙ FEMALE OFFICER ❙ She has to sign it willingly.

01m:13s ❙ DON HAMRICK ❙ I know. ... I know. [again, sound of the officer wearing the body cam spitting with the force of a trajectory]

01m:15s ❙ OFFICER WEARING BODY CAM ❙ And with all this tonight you know. 01m:18s ❙ UNIDENTIFIED OFFICER1 ❙ Thanks for all your help.

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process of switching her from Dr. Ransom to the VA Health Care System in Searcy (Dr. Darby) and the VA in Little Rock before the arrest I eventually got her an appointment with the VA in Little Rock after I got released about a week or two after the arrest.

[73] MY EXPLANATION: One officer is heard on video spitting with the force of a trajectory four times. Was it the officer wearying the body cam? That was disgusting behavior. Was he enjoying chewing tobacco?

[74] MY EXPLANATION: That officer lied from ignorance. I lawyer does not have to "draw" up the power of attorney. There are countless web sights that officer automated power of attorney templates where you simply fill in the needed information and get the form printed for you. Some web sights are free. Others you pay to get the form printed. Here again, an officer speaking without knowing what she or he is talking about.

01m:19s | OFFICER WEARING BODY CAM | It's not going to help your case none.[75]

01m:21s | DON HAMRICK | Oh, yes it could.

01m:22s | UNIDENTIFIED OFFICER1 | You went and got them from the doctor today?

01m:25s | OFFICER WEARING BODY CAM | No. It was sent here.[76]

01m:27s | DON HAMRICK | ARCare.

[MOMENTARY PAUSE WITH EVERYONE]

01m:32s | DON HAMRICK | She's just getting out of hand. She's emotional.

01m:35s | OFFICER WEARING BODY CAM | Have you hit her or anything?

01m:36s | DON HAMRICK | Nope. But she did physically grabbed at this and tore it. [ARCare Letter]

01m:42s | OFFICER WEARING BODY CAM | Okay.

01m:43s | DON HAMRICK | I can see her emotions getting so high she was ready to take a punch at me.[77]

01m:46s | OFFICER WEARING BODY CAM | Who called the police? 01m:49s | DON HAMRICK | She did.

01m:51s | UNIDENTIFIED OFFICER1 | Whose information is that for?

01m:57s | DON HAMRICK | It's for anybody. To whom it may concern. It was written at my request.

[MOMENTARY PAUSE WITH OFFICERS]

02m:13s | DON HAMRICK | Now you gotta understand her. That she has had personality problems personality problems her entire life. She's

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[75] MY EXPLANATION: Another officer making a prejudiced statement about my case. It is not his job and he does not have the authority to make judicial determinations on what will or will not help my case.

[76] MY EXPLANATION: The officers can keep the information they receive from me straight in their own notes. I went to ARCare because a nurse who examined Patsy Hays told me she noticed signes of Alzheimers. She prepared the "To Whom It May Concern" letter for me at my request so I can get her assessed for Alzheimers.

[77] MY EXPLANATION: This was an extreme display of her behavior. She became the aggressor. I was the victim of her aggression. However, I presume it was before the arrest video began that one of the officers told me that whenever they are called out to a domestic battery case that the man must be arrested. I have addressed this in my previous motions. That gender bias is not included in the law for domestic battery. That officer lied.

argumentative. Hateful. And prone to lying.

02m:23s | UNIDENTIFIED OFFICER1 | How long have you lived here?

02m:26s | DON HAMRICK | A couple of months. They both are getting so old that they asked me to come and be their driver. I've been driving them around. And that evolved into maintenance. I stained this porch. I got that mailbox installed. I'm their handyman.

02m:46s | UNIDENTIFIED OFFICER1 | That's far from caregiver. Driver and Caregiver are two different things.[78]

02m:50s | OFFICER WEARING BODY CAM | Do you have your ID on you by chance?

02m:53s | DON HAMRICK | Ahh Yeah.

02m:55s | OFFICER WEARING BODY CAM | If you don't mind.

03m:12s | OFFICER WEARING BODY CAM | Thank you, sir.

03m:13s | DON HAMRICK | I haven't had the [Tennessee] license changed over. 03m:28s | UNIDENTIFIED OFFICER1 | So, what happened tonight? She's just upset . . .

03m:31s | DON HAMRICK | Yeah. She got really upset that I went behind her back to get this letter saying that she's got Alzheimers. She thinks she's perfectly normal. But she's been paying bills twice, four times. And the family, the relatives, they all agree with me that I have to do the bills. She gets it in her head that she can do the bills but she keeps making mistakes. She sits at the table for hours on end looking at the stack of papers. She can't figure it out.

04m:15s | UNIDENTIFIED OFFICER1 | So how long have you been doing this [inaudible]?

...

04m:18s | OFFICER WEARING BODY CAM | [again, sound of the officer wearing the body cam spitting with the force of a trajectory].

04m:20s | DON HAMRICK | No. I've been doing it before. [*caregiving for Patsy and James Hays*]. And then she caused another stink and I had to leave. They [*Patsy*] asked me to come back. I left on Christmas Day. That was a real happy day. Get Out! [chuckle]. Then I went to my brother's in Chattanooga.

04m:43s | UNIDENTIFIED OFFICER1 | How long were you there.

04m:44s | DON HAMRICK | Well, maybe 4 months. Then I get the call that they want me back.

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[78] The unidentified officer is making a judgment on the defendants statement. That is not the role for the police.

04m:49s | UNIDENTIFIED OFFICER1 | So, it wasn't this Christmas?

04m:51s | DON HAMRICK | No. Yes. ...

04m:53s | UNIDENTIFIED OFFICER1 | Well, its January so it couldn't have been a couple of months.

04m:59s | DON HAMRICK | I was gone for a few days, a weekend. They asked me back.

05m:08s | OFFICER WEARING BODY CAM | Both of them are saying that when [hesitating/stuttering] I guess y'all were fighting over the paper whatever, you snatched the paper, the paper got snatched loose?

05m:16s | DON HAMRICK | She grabbed for it.

05m:17s | OFFICER WEARING BODY CAM | Yeah. But they're also saying you grabbed her by the shirt and pulled. Did you do that?

05m:23s | DON HAMRICK | No. James didn't see exactly what happened. [walking up to the officer asking the questions to demonstrate how and who grabbed the paper.] Okay. Stay there. She's this far from me. She grabbed it. And I grabbed her arm [NOT ARM. BUT WRIST][79] out of her fist. I grabbed this [SHOWING TORN PIECE OF PAPER] out of her fist because I didn't want her destroying it.

05m:43s | UNIDENTIFIED OFFICER | So, you did grab it. You grabbed her arm.

05m:47s | DON HAMRICK | No.

05m:48s | OFFICER WEARING BODY CAM | You just said that.

05m:49s | DON HAMRICK | No. I did not. I grabbed her wrist.

05m:52s | OFFICER WEARING BODY CAM | That's her arm.

05m:53s | DON HAMRICK | No it is not. That is her hand [pointing to my hand]. The arm is up here. [Running my hand up and down my arm, above and below the elbow.] If you want to get . . .

05m:57s | OFFICER WEARING BODY CAM | Don't be hateful. I'll tell you that

[79] MY EXPLANATION: It is clear that I said "arm" but I was thinking "wrists." It was the classic Freudian Slip. Fehlleistungen (faulty actions). See Jena Pincott, Slips of the Tongue, Psychology Today, March 13, 2012. https://www.psychologytoday.com/articles/201203/slips-the-tongue.

now.[80]

06m:00s | ASSISTANT CHIEF OF POLICE | Hey look. Here's what's going to happen. You're going to jail for Domestic Battery tonight. OK?

06m:03s | DON HAMRICK | Domestic Battery.

06m:04s | ASSISTANT CHIEF OF POLICE | Yes sir. There's going to be a No Contact Order issued and you can't come back to this residence as long as they are residing here. If you do, they call? You go back to jail. Another problem we got is if you have her credit card? You got to give it up.

06m:20s | UNIDENTIFIED OFFICER | You can give it to us out here.

06m:24s | DON HAMRICK | [*subdued tone of voice*] No. I want to see her face when I give it to her.

06m:25s | UNIDENTIFIED OFFICER | No.

06m:27s | ASST CHIEF OF POLICEN | Sir. That's not on option.

06m:28s | BIG FAT COP | But if you feel you can move me out of the way * we'll let you try. [*sound of the officer wearing the body cam spitting with the force of a trajectory][81]

[MEMONTARY SILENCE AS DON HAMRICK LOOKING THROUGH HIS CARDS]

06m:38s | ASST CHIEF OF POLICE | Anything that's got her name on it she's entitled to it. [MEMONTARY SILENCE AS DON HAMRICK LOOKING THROUGH HIS CARDS]

06m:50s | DON HAMRICK | Okay.

06m:52s | ASST CHIEF OF POLICE | That's everything?

06m:52s | DON HAMRICK | Yes.

06m:53s | ASST CHIEF OF POLICE | Do you have a wallet on you?

06m:55s | ASST CHIEF OF POLICE | Do you have anything on you at all?

06m:57s | DON HAMRICK | That's it.

06m:59s | ASST CHIEF OF POLICE | No knives? No nothing? Right? [pause] Keys?

07m:07s | DON HAMRICK | Yes. [Handing the keys over.]

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[80] MY EXPLANATION: I was not displaying an attitude of any kind. The officer erroneously perceived an attitude from me or he attempted to inject an attitudinal confrontation in order to provoke an attitude in me.

[81] MY EXPLANATION: The officer attempted to escalate the interview into physical violence by giving by provoking into violence to get passed that officer. I did not take the bait because I recognized the tactic. That's a bully tactic. Not a cop's tactic. But it can be a corrupt cop's tactic.

07m:13s | OFFICER WEARING BODY CAM | Now put your hands behind your back for me. 07m:59s | UNIDENTIFIED OFFICER | You can go ahead and just walk him out there.

[BEING WALKED OUT TO THE POLICE TRUCK FOR TRANSPORTING TO JAIL.]

APPENDIX 2. EMAILS FROM STARK AS EVIDENCE OF PREJUDICE AGAINST ME AS A FACTUALLY INNOCENT *PRO SE* DEFENDANT

Stark Ligon's emails below is my evidence of his prejudice against me for whatever his reasons are. It was because of his open prejudice against me in his emails to me that I felt appealing my False Convict at the Kensett District Court to the White County Circuit Court and on to the Arkansas Supreme Court would have been an act of futility. I was justifiable suspicious of the Arkansas Supreme Court's impartiality because of Stark Ligon's presume influence since he is the Director of the Arkansas Office of Professional Conduct (part of the Arkansas Supreme Court).

EMAIL NO. 1 REPLY FROM STARK LIGON

(*Stark Ligon's Prejudicial Attitude Clearly Indicated*)

(***See Emails No. 2 to 11***)

Date: Wednesday, March 28, 2018, 9:24:58 AM CDT
From: Stark Ligon, Arkansas Off. Professional Responsibility (AR Supreme Court)
To: Arkansas Attorney General
Alli Mack Arkansas Office of Professional Responsibility (AR Supreme Court)
David Sachar, Judicial Discipline Commission
John Pollard, Chief of Police, Kensett, Arkansas
Don Raney, Prosecutor, Kensett District Court

Subject: RE: UNIVERSITY OF ARKANSAS LAW NOTES:

Mr. Hamrick, why should I take valuable time to read or save this email, and many others you have copied me on that appear to have little to do with the business of this office. Maybe you could save all of them you think I/this office should read, and send them to me as a group once you get a court of law to agree with you and provide you any relief in your current dispute with the Kensett District Court. Thank you for your consideration.

Stark Ligon
Executive Director & Chief Disciplinary Counsel
Arkansas Supreme Court
Office of Professional Conduct
2100 Riverfront Drive, Suite 200
Little Rock, AR 72202-1747

MY EMAIL NO. 2 REPLYING TO STARK LIGON

Sent: Wednesday, March 28, 2018 10:47 AM
Subject: FOR THE ARKANSAS ATTORNEY GENERAL
From: Don Hamrick
To: Stark Ligon, Arkansas Office of Professional Responsibility (AR Supreme Court)
Arkansas Attorney General
Alli Mack Arkansas Office of Professional Responsibility (AR Supreme Court)
David Sachar, Judicial Discipline Commission
John Pollard, Chief of Police, Kensett, Arkansas
Don Raney, Prosecutor, Kensett District Court

SUBJECT: STARK LIGON, EXECUTIVE DIRECTOR & CHIEF DISCIPLINARY COUNSEL, ARKANSAS SUPREME COURT, OFFICE OF PROFESSIONAL CONDUCT

The email from Stark Ligon [above] is representative of his attitude toward me as a *pro se* innocent defendant. An attitude implying a bias and/or prejudice against those not represented by an attorney. In a previous email I remarked that if his attitude of bias, prejudice, or disrespect against me as a *pro se* innocent defendants is considered to be misconduct then why is he employed as the Executive Director of the Office of Professional Conduct? **That situation is oxymoronically dysfunctional**. What is his problem? I will have to appease his ego by excluding him in my emails in my pursuit of **actual justice** since he is apparently not interested. In my opinion, Stark Ligon should be fired for his annoyance with my efforts to clear my name and reputation from a **FALSE CONVICTION**.

This email can be taken as my complaint against Stark Ligon for his own misconduct.

Don Hamrick
Candidate for Mayor of Kensett

EMAIL NO. 3 REPLY FROM STARK LIGON

Sent: Wednesday, March 28, 2018 11:14 AM
From: Stark Ligon, Arkansas Off. Professional Responsibility (AR Supr. Court)
To: Arkansas Attorney General
Alli Mack Arkansas Office of Professional Responsibility (AR Supreme Court)
David Sachar, Judicial Discipline Commission
John Pollard, Chief of Police, Kensett, Arkansas
Don Raney, Prosecutor, Kensett District Court
Cc: Stark Ligon

Subject: RE: FOR THE ARKANSAS ATTORNEY GENERAL

Mr. Hamrick, do what you will. A grievance form is attached for your covenience. I am trying to manage my time effectively. As you know, our office has no jurisdiction over judges and courts - only lawyers. You combine your materials, thoughts, and comments about judges and lawyers and other topics in many of your communications, causing unneeded effort and time on my part to try to separate them out and see what is relevant to our limited authority. It appears you were charged, prosecuted, convicted, and have appealed. Our office often waits to see that outcome for the underlying litigation, criminal or civil, before continuing our investigation of a lawyer complaint. We are doing so here.

The remainder of your remarks [above] are your personal opinion about me, how this office operates, and my thoughts, and pure speculation on your part. This office will do its job here, but on our schedule and as and how we decide to do it, not how you might choose to tell us to do it.

Stark Ligon
Executive Director & Chief Disciplinary Counsel
Arkansas Supreme Court
Office of Professional Conduct
2100 Riverfront Drive, Suite 200
Little Rock, AR 72202-1747

My Email No. 4 Replying to Stark Ligon

Date:Wednesday, March 28, 2018, 11:27:28 AM CDT
From: Don Hamrick
To: Stark Ligon, Arkansas Office of Professional Responsibility (AR Supreme Court)
Arkansas Attorney General
Alli Mack Arkansas Office of Professional Responsibility (AR Supreme Court)
David Sachar, Judicial Discipline Commission
John Pollard, Chief of Police, Kensett, Arkansas
Don Raney, Prosecutor, Kensett District Court

Subject:Re: RE: FOR THE ARKANSAS ATTORNEY GENERAL.

THAT'S YOUR JOB.

My job is to address the problem of my own false conviction as the product of a corrupt system system of justice. That includes corrupt prosecutors, corrupt judges, and the abuse of due process producing false convictions. False convictions are a national problem. Deal with it!

DON HAMRICK
Candidate for Mayor of Kensett

Email No. 5 FROM Don Raney, Prosecutor, Kensett District Court TO Stark Ligon (Emails No. 3, 5, & Earlier Emails)

(*Admonishing Stark Ligon's prejudicial attitude against me.*)

Date: Wednesday, March 28, 2018, 11:31:52 AM CDT
From: Don Raney, Prosecutor, Kensett District Court
To: Stark Ligon, Arkansas Off. Professional Responsibility (AR Supr. Court)
Cc: Don Hamrick

Subject:RE: Don Hamrick

Stark,

Not sure I appreciate you responding to Mr. Hamrick in this manner but I will respond to any alleged misconduct on my part if and when he makes such as claim against me.

To advise you so you have the full picture Mr. Hamrick has not appealed his district court conviction and the time to do so has passed.

He was convicted on February 22, 2018, so his time to file an appeal to the circuit court expired on March 26th, 2018.

I am advised by the district court clerk Mr. Hamrick never obtained a certified copy of the docket sheet which is required to appeal from a district court to a circuit court.

I am further advised by the circuit clerk's office that Mr. Hamrick has not filed an appeal of his district court conviction to the circuit court.

The ruling and conviction of Mr. Hamrick in the Kensett District Court is complete and final.

Don Raney

EMAIL NO. 6 FROM STARK LIGON TO DON RANEY

Date:Wednesday, March 28, 2018, 11:54:39 AM CDT

From: Stark Ligon, Arkansas Off. Professional Responsibility (AR Supr. Court)

To: Don Raney, Prosecutor, Kensett District Court

Cc: Don Hamrick, AND Stark Ligon

Subject:RE: Don Hamrick - Kensett Dist Court - Don Raney

Thank you for the information about his "state" case. Mr. Hamrick has sent me documents indicating he went to the USDC – ED-AR, was dismissed there on 10-26-17; appealed to the federal eighth circuit and was affirmed and dismissed there on 1-17-18; and now is attempting cert to the U. S. Supreme Court.

I am very busy now getting prepared for a 4-5 week disbarment case that starts in a few weeks, and have little time to look at anything else right now. It may be late May or early June before I can get back to this file.

Stark Ligon
Executive Director & Chief Disciplinary Counsel
Arkansas Supreme Court
Office of Professional Conduct
2100 Riverfront Drive, Suite 200
Little Rock, AR 72202-1747

EMAIL NO. 7 FROM STARK LIGON TO DON HAMRICK

Date:Wednesday, March 28, 2018, 12:00:22 PM CDT
Subject:RE: RE: FOR THE ARKANSAS ATTORNEY GENERAL
From: Stark Ligon, Arkansas Off. Professional Responsibility (AR Supreme Court)
To: Arkansas Attorney General
Alli Mack Arkansas Office of Professional Responsibility (AR Supreme Court)
David Sachar, Judicial Discipline Commission
John Pollard, Chief of Police, Kensett, Arkansas
Don Raney, Prosecutor, Kensett District Court
Cc:stark.ligon@arcourts.gov

Mr. Hamrick, where is the evidence of a false conviction in your case – except possibly in an appeal to circuit court you apparently did not perfect and is now apparently dead. Alleged false convictions as a national problem is not within the authority or scope of this office.

If you have a specific complaint against a specific Arkansas lawyer, then you please separate out all the other stuff, focus on that alone, and provide us your evidence.

Stark Ligon
Executive Director & Chief Disciplinary Counsel
Arkansas Supreme Court
Office of Professional Conduct
2100 Riverfront Drive, Suite 200
Little Rock, AR 72202-1747

EMAIL NO. 8 FROM DON HAMRICK TO STARK LIGON

Date:Wednesday, March 28, 2018, 12:54:23 PM CDT

From: Don Hamrick
To: Stark Ligon, Arkansas Office of Professional Responsibility (AR Supreme Court)
Arkansas Attorney General
Alli Mack Arkansas Office of Professional Responsibility (AR Supreme Court)
David Sachar, Judicial Discipline Commission
John Pollard, Chief of Police, Kensett, Arkansas
Don Raney, Prosecutor, Kensett District Court

Subject:Re: RE: RE: FOR THE ARKANSAS ATTORNEY GENERAL

It is my presumed fact that there exists a distinct prejudice against pro se civil plaintiffs with constitutional and/or civil rights cases and pro se factually innocent

defendants in state and federal courts as I have first-hand experience as a victim of that prejudice with my own false conviction at the Kensett District Court.

After both the Arkansas Judicial Discipline Commission and the Office of Professional Conduct denied my complaints, finding no wrongdoing, and after I got falsely convicted I decided that appealing to the White County Circuit and on to the Arkansas Supreme Court would be an act of futility.

After all, both the Judicial Discipline Commission and the Office of Professional Conduct, being part of the Arkansas Supreme Court, have already shown their prejudice by denying my complaint when I had ample evidence of judicial and prosecutorial misconduct. My sarcastic opinion is that their denials served to whitewash and preserve the status quo for public corruption of small town courts. I have asked around about White County courts. The public opinion is that White County is the most corrupt county in Arkansas.

It was my choice not to appeal. I will take my chances at the U.S. Supreme Court since false convictions is a national problem. I will be challenging the constitutionality of absolute immunity as a violation of the checks and balances of our constitutional form of government. After all, like absolute power, absolute immunity corrupts absolutely.

THE PSYCHOLOGY OF STARK LIGON'S EMAIL

I noticed Stark Ligon took Don Raney's information about me and threw that information in my face (figuratively speaking) as he thought he got one up on me. I laughed. And yes, I am taking a chance with the federal courts. But the issue of false convictions IS a national problem. I have to try to make the point at the U.S. Supreme Court.

DON RANEY

Thank you for putting Stark Ligon in his place for his attitude. But I will still maintain my complaint against you with the Office of Professional Conduct.

DON HAMRICK
Candidate for Mayor of Kensett

EMAIL NO. 9 FROM DON HAMRICK TO STARK LIGON

Date:Wednesday, March 28, 2018, 1:50:06 PM CDT
From: Don Hamrick
To: Stark Ligon, Arkansas Office of Professional Responsibility (AR Supreme Court)
Arkansas Attorney General
Alli Mack Arkansas Office of Professional Responsibility (AR Supreme Court)

David Sachar, Judicial Discipline Commission
John Pollard, Chief of Police, Kensett, Arkansas
Don Raney, Prosecutor, Kensett District Court

Subject:Re: RE: RE: FOR THE ARKANSAS ATTORNEY GENERAL

FOR STARK LIGON

I have mailed my false conviction complaint against Kensett Court Prosecutor Don Raney. I have not yet received an acknowledged receipt of my complaint. What happened did you not receive it?

DON HAMRICK
Candidate for Mayor of Kensett

EMAIL NO. 10 FROM STARK LIGON TO DON HAMRICK

Date:Wednesday, March 28, 2018, 2:16 PM CDT
From: Stark Ligon, Arkansas Off. Professional Responsibility (AR Supreme Court)
To: Don Hamrick
Cc: Stark Ligon
Alli Mack Arkansas Office of Professional Responsibility (AR Supreme Court)
Caroline Bednar of Office of Professional Responsibility (AR Supreme Court)
David Sachar, Judicial Discipline Commission
Don Raney, Prosecutor, Kensett District Court

SUBJECT: DON HAMRICK COMPLAINTS ON DONALD RANEY

Mr. Hamrick staff informs me that your original grievance against Don Raney, our file T2017-238, was staff-closed as not having sufficient evidence or merit to go to a formal complaint, you asked for a panel review of the staff closing decision, and we are awaiting that panel action outcome.

You sent in a new grievance on Raney that we received on 3-12-18, it appears to be about the same matter as the first one, was combined with the panel review file, and is part of what is pending there now.

I hope this brings you up to date on your matters involving Mr. Raney here.

Stark Ligon
Executive Director & Chief Disciplinary Counsel
Arkansas Supreme Court
Office of Professional Conduct
2100 Riverfront Drive, Suite 200
Little Rock, AR 72202-1747

APPENDIX 3. UNCONSTITUTIONAL CONDITIONS

1. **DEFINITION OF A SLAVE UNDER *DRED SCOTT* V. *SANFORD***, 60 U.S. 393, 416–417 (1856)

> "The legislation of the States therefore shows, in a manner not to be mistaken, the inferior and subject condition of that race at the time the Constitution was adopted, and long afterwards, throughout the thirteen States by which that instrument was framed; and it is hardly consistent with the respect due to these States, to suppose that they regarded at that time, as fellow-citizens and members of the sovereignty, a class of beings whom they had thus **stigmatized**; whom, as we are bound, out of respect to the State sovereignties, to assume they had deemed it just and necessary thus to **stigmatize**, and upon whom they had impressed such deep and enduring marks of inferiority and degradation; or, that when they met in convention to form the Constitution, they looked upon them as a portion of their constituents, or designed to include them in the provisions so carefully inserted for the security and protection of the liberties and rights of their citizens. It cannot be supposed that they intended to secure to them rights, and privileges, and rank, in the new political body throughout the Union, which every one of them denied within the limits of its own dominion. More especially, it cannot be believed that the large slaveholding States regarded them as included in the word citizens, or would have consented to a Constitution which might compel them to receive them in that character from another State. For if they were so received, and entitled to the privileges and immunities of citizens, it would exempt them from the operation of the special laws and from the police regulations which they considered to be necessary for their own safety. It would give to persons of the negro race, who were recognised as citizens in any one State of the Union, **the right to enter every other State whenever they pleased, singly or in companies, without pass or passport, and without obstruction, to sojourn there as long as they pleased, to go where they pleased at every hour of the day or night without molestation**, unless they committed some violation of law for which a white man would be punished; and it would give them the full liberty of speech in public and in private upon all subjects upon which its own citizens might speak; to hold public meetings upon political affairs, and **to keep and carry arms wherever they went**. And all of this would be done in the face of the subject race of the same color, both free and slaves, and inevitably producing discontent and insubordination among them, and endangering the peace and safety of the State."[82]

[82] My emphasis for effect.

2. **CITING RONALD B. STANDLER, DOCTRINE OF UNCONSTITUTIONAL CONDITUTIONS IN THE USA,** A Massachusetts' Essay on Law, available online at www.rbs2.com/duc.pdf.

> 2. RECOGNITION OF THE DOCTRINE
>
> The doctrine of unconstitutional conditions can be traced back to Home Ins. Co. of New York v. Morse, 87 U.S. 445, 451 (1874) ("A man may not barter away his life or his freedom, or his substantial rights."). The first mention of the phrase "unconstitutional conditions" by the U.S. Supreme Court occurred inh Doyle v. Contintental Ins. Co., 94 U.S. 535, 543 (1876) (Bradley, J., dissenting) ("Though a State may have the power, if it sees fit to subject its citizens to the inconvenience, of prohibiting all foreign corporations from transacting business within its jurisdiction, it has no power to impose unconstitution conditions upon their doing so.").
>
> . . .
>
> 5. CONCLUSION (page 33)
>
> The doctrine of unconstitutional conditions has occasionally been used by judges to prohibit the government from requiring people to waive their constitutional rights. The doctrine has never been carefully explained by the U.S. Supreme Court. Furthermore, when making an exception to the doctrine, the U.S. Supreme Court usually ignores the doctrine. [Below], I suggest three different situations in which the doctrine might apply. The U.S. Supreme Court permits waivers of constitutional rights in one group of situations.
>
> By focusing on a broad proposition like this doctrine, we can make a general decision of the limits that we wish to place on our government. For that reason, the doctrine is more important than any of the cases that invoke it.
>
> (page 31)
>
> I suggest the doctrine of unconstitutional conditions is composed of several different situations, with different outcomes.
>
> > 1. The government can *never* require surrender of one constitional right as a condition to receive another constitutional right. This is an absolute rule that protects the integrity of civil liberties.
> >
> > 2. The government can *not* additionally require surrender of a constitutional right as condition of *continuing* the receive a benefit ... when the person continues to meet ALL of the conditions in statutes and regulations for that benefit. In other words, once the benefit has begun, the

benefit can not be discontinued because the person used (or wants to use) their constitutional right. This rule prevents retaliation by the government against people who use their civil liberties.

3. The government *can* require surrender of a constitutional rights as on openly published (i.e., in a statute or regulation) condition for receiving a benefit (e.g., employment), when *both* of the following are satisfied:

(a) there must be an "essential nexus" between the right being surrendered and the benefit, AND

(b) the values of the surrendered right and the benefit must be approximately equal.[6] Values are easy to etermine for property rights, but a value is difficult to put on the right to freedom of speech and other intangible constitutional rights. In cases where value of the surrendered right can not be determined, there should be a compelling reason why the surrender is required for the proper functioning of government or public policy.

…

Balancing Tests (page 24)

The U.S. Supreme Court has not been clear about what test to use in deciding whether a government has an acceptable reason to require waiver of a constitutional right. In 1996, the Court held that the balancing test in Pickering, 391 U.S. 563, was to be used. Board of County Com'rs, Wabaunsee County, Kan. v. Umbehr, 518 U.S. 668, 678-680 (1996). Earlier, the U.S. Supreme Court used the phrase "vital government interest" in Rutan v. Republican Party of Illinois, 497 U.S. 62, (1990) and "overriding interest ... of vital importance" in Branti v. Finkel, 445 U.S. 507 (1980). Earlier still, the Court appears to pretend that the doctrine is absolute, sono test is necessary. Speiser v. Randall, 357 U.S. 513 (1958).

APPENDIX 4. JOHN PAUL STEVENS, REPEAL THE SECOND AMENDMENT, THE NEW YORK TIMES | OPINION | OP-ED CONTRIBUTOR, MARCH 27, 2018.

1. POINT:

John Paul Stevens, *Repeal The Second Amendment*, The New York Times | Opinion | Op-Ed Contributor, March 27, 2018

A musket from the 18th century, when the Second Amendment was written, and an assault rifle of today. *Credit: Top, MPI, via Getty Images, bottom, Joe Raedle/Getty Images*

Rarely in my lifetime have I seen the type of civic engagement schoolchildren and their supporters demonstrated in Washington and other major cities throughout the country this past Saturday. These demonstrations demand our respect. They reveal the broad public support for legislation to minimize the risk of mass killings of schoolchildren and others in our society.

That support is a clear sign to lawmakers to enact legislation prohibiting civilian ownership of semiautomatic weapons, increasing the minimum age to buy a gun from 18 to 21 years old, and establishing more comprehensive background checks on all purchasers of firearms. But the demonstrators should seek more effective and more lasting reform. **They should demand a repeal of the Second Amendment.**

Concern that a national standing army might pose a threat to the security of the separate states led to the adoption of that amendment, which provides that "a well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed." Today that concern is a relic of the 18th century.

For over 200 years after the adoption of the Second Amendment, it was uniformly understood as not placing any limit on either federal or state authority to enact gun control legislation. In 1939 the Supreme Court unanimously held that Congress could prohibit the possession of a sawed-off shotgun because that weapon had no reasonable relation to the preservation or efficiency of a “well regulated militia.”

During the years when Warren Burger was our chief justice, from 1969 to 1986, no judge, federal or state, as far as I am aware, expressed any doubt as to the limited coverage of that amendment. When organizations like the National Rifle Association disagreed with that position and began their campaign claiming that federal regulation of firearms curtailed Second Amendment rights, Chief Justice Burger publicly characterized the N.R.A. as perpetrating “one of the greatest pieces of fraud, I repeat the word fraud, on the American public by special interest groups that I have ever seen in my lifetime.”

In 2008, the Supreme Court overturned Chief Justice Burger’s and others’ long-settled understanding of the Second Amendment’s limited reach by ruling, in District of Columbia v. Heller, that there was an individual right to bear arms. I was among the four dissenters.

That decision — which I remain convinced was wrong and certainly was debatable — has provided the N.R.A. with a propaganda weapon of immense power. Overturning that decision via a constitutional amendment to get rid of the Second Amendment would be simple and would do more to weaken the N.R.A.’s ability to stymie legislative debate and block constructive gun control legislation than any other available option.

That simple but dramatic action would move Saturday’s marchers closer to their objective than any other possible reform. It would eliminate the only legal rule that protects sellers of firearms in the United States — unlike every other market in the world. It would make our schoolchildren safer than they have been since 2008 and honor the memories of the many, indeed far too many, victims of recent gun violence.

Correction: March 26, 2018

An earlier version of a picture caption with this article misidentified the 18th-century firearm depicted. It is a musket, not a rifle.

2. COUNTER-POINTS

AMY SWEARER, JOHN PAUL STEVENS IS WRONG ABOUT THE SECOND AMENDMENT, HISTORY, AND SCHOOL VIOLENCE, THE DAILY SIGNAL | LAW | COMMENTARY, MARCH 29, 2018. Available online at https://www.dailysignal.com/2018/03/29/john-paul-stevens-is-wrong-about-the-second-amendment-history-and-school-violence/

Former Supreme Court Justice John Paul Stevens penned an op-ed in The New York Times on Tuesday, advising that gun control activists at recent demonstrations have not gone far enough in their demands for more restrictions on the right to keep and bear arms.

According to Stevens, it isn't enough to deny millions of young adults the most effective means of self-defense by raising the minimum age of all firearm purchases to 21.

It isn't enough, even, to ban the civilian possession of all semi-automatic firearms, thereby reducing law-abiding citizens to reliance on bolt-action rifles, revolvers, and pump-action shotguns.

No.

Stevens informs anti-gun advocates that they must demand a repeal of the Second Amendment.

He insists—as he did in his dissenting opinion in District of Columbia v. Heller (2008)—that the Second Amendment was centered solely on the Framers' concerns about the threats posed by a national standing army, a concern he labels "a relic of the 18th century."

He claims that "[f]or over 200 years after the adoption of the Second Amendment, it was uniformly understood as not placing any limits on either federal or state authority to enact gun control legislation."

He excoriates the National Rifle Association, who he states concocted the theory of an individual right to keep and bear arms in order to perpetrate a fraud against the American public on behalf of gun manufacturers.

He demands the elimination of the Second Amendment in order to make our schoolchildren safer than they have been since the court's 2008 Heller decision.

These allegations would be much more bearable if they were simply the result of differing interpretations of an unclear history. But this is not the case: Every single allegation Stevens makes is objectively untrue.

1. The Framers—not the NRA—first articulated the Second Amendment as protecting an individual right.

While it is true that the founding generation mistrusted standing armies, the Federalists and Anti-Federalists maintained basic, implied assumptions throughout their disagreements over the drafting and ratification of the Constitution—including the understanding that the new Constitution gave the federal government no authority to disarm the citizenry.

That individuals had an underlying right to keep and bear arms was simply assumed. In the words of prominent Second Amendment scholar Nelson Lund,[83] the debate "*was only over the narrow question of whether an armed populace could adequately assure the preservation of liberty*."

[83] Nelson Lund, The Second Amendment and the Inalienable Right to Self-Defense, The Heritage Foundation | Report | The Constitution, April 17, 2014. Available

Consider the following:

- James Madison, in Federalist No. 46,[84] distinguished armed individuals from the protections of federalism and the existence of the militia: "Besides the advantage of being armed, which the Americans possess over the people of almost every other nation, the existence of subordinate governments, to which the people are attached and by which the militia officers are appointed, forms a barrier … more insurmountable than any which a simple government of any form can admit of."
- Noah Webster provided the following summary[85] during the ratification debates: "Before a standing army can rule, the people must be disarmed; as they are in almost every kingdom in Europe. The supreme power in America cannot enforce unjust laws by the sword; because the whole body of the people are armed … ."
- Samuel Adams, at the Massachusetts Ratifying Convention, declared:[86] "The Constitution shall never be construed … to prevent the people of the United States who are peaceable citizens from keeping their own arms."

Similar understandings can also be found from, among others, George Washington, Thomas Jefferson, and George Mason. These Founders were not articulating an original idea, either, but building on the foundations laid by such scholars[87] as William Blackstone, Cesare Beccaria, and John Locke.

2. The existence of an individual right to keep and bear arms is apparent throughout the nation's history.

Even a cursory review[88] of the pre-eminent legal scholars in 18th and 19th century America reveals 200 years of overwhelming adherence to an individual right to keep and bear arms:

- George Tucker, whose 1803 American edition of Blackstone's "Commentaries" was the standard treatise on common law for an entire generation, annotated Blackstone to reflect American rights this way: "The right of the people to keep and bear arms shall not be infringed, and this without any qualification as to their condition or degree, as is the case in the British government."
- William Rawle, in his 1825 leading constitutional treatise "A View of the Constitution of the United States of America," wrote regarding the

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online at https://www.heritage.org/the-constitution/report/the-second-amendment-and-the-inalienable-right-self-defense.

[84] http://avalon.law.yale.edu/18th_century/fed46.asp

[85] http://www.madisonbrigade.com/n_webster.htm

[86] http://www.madisonbrigade.com/s_adams.htm

[87] http://www.libertylawsite.org/2017/10/09/bret-stephens-fetishism-for-gun-control/

[88] David B. Kopel, *The Second Amendment in the Nineteenth Century*, 1998 BYU Law Review November 1, 1998. Available at: https://digitalcommons.law.byu.edu/lawreview/vol1998/iss4/2

Second Amendment: “No clause in the Constitution could by any rule of construction be conceived to give Congress a power to disarm the people. Such a flagitious attempt could only be made under some general pretense by a state legislature. But if by any blind pursuit of inordinate power, either should attempt it, this amendment may be appealed to as a restraint on both.”

In other words, Rawle describes an amendment that limits the ability of the state and federal governments to disarm individuals, directly contradicting Stevens’ claim of 200 years of unanimous understanding that it does no such thing.

- Joseph Story, the highly regarded Supreme Court justice and author of the 1833 “Commentaries on the Constitution of the United States,” built off of Tucker’s language in his own treatise and wrote: “The right of the citizens to keep and bear arms has justly been considered as the palladium of the liberties of a republic; since it offers a strong moral check against the usurpation and arbitrary powers of rulers; and will generally, even if these are successful in the first instance, enable the people to resist and triumph over them.”
- Jonathan Elliot’s 1836 compilation, “The Debates in the Several State Conventions on the Adoption of the Federal Constitution,” places the “right to keep and bear arms” under the index heading “Rights of the Citizen declared to be—” with the other first nine amendments. The 10th Amendment, which clearly addresses the power of the states, is placed elsewhere.

3. The Heller opinion had absolutely no negative effect on the safety of the nation’s students.

This, perhaps, is the most disappointing assertion of Stevens’ op-ed, because it is an objective, quantifiable fact that America’s schoolchildren are safer today[89] than they have been in over three decades, even while the number of legally owned guns per capita has increased.

Since the early 1990s, the number of students killed on school campuses has plummeted by 75 percent. The percentage of high school students carrying weapons to school dropped from 14 percent in 1993 to 4 percent in 2014, and the percentage of students reporting easy access to a loaded firearm at home similarly decreased. The number of shooting incidents involving students has also steadily declined.

While this increase in safety may not be caused by the increase in privately owned firearms and concealed carry permits, there is certainly no increase in danger to attribute to Heller, a case with a relatively narrow holding that individuals have a right to keep operable handguns in their homes for self-defense.

[89] https://www.heritage.org/firearms/report/focusing-school-safety-after-parkland

If there is, on any side of the gun control discussion, a fraud being perpetrated, it is by those who portray a false history and promote incorrect facts in order to advocate ineffective policies.[90]

No one fails to mourn the loss of life after tragic shootings. But if we are to honor the victims of gun violence, as Stevens correctly suggests we should, we ought not to manipulate reality in their name.

We should, instead, embrace the facts[91] as we find them, and make our policy decisions based upon knowledge—not emotion and rhetoric.

BOB LIVINGSTON, JUSTICE STEVENS' FALLACY, PERSONAL LIBERTY, APRIL 2, 2018. Available online at https://personalliberty.com/justice-stevens-fallacy/.

In a March 27 op-ed in The New York Times, retired Supreme Court Justice John Paul Stevens took direct aim at the 2nd Amendment, announcing that it was time for its repeal.

As one would imagine, the anti-gun crowd reacted with glee. Stevens' call for repeal of the 2nd Amendment provided them with just the cover they needed to express once and for all their ultimate but long-hidden goal: total disarmament of the American people. Here they finally had a prominent voice expressing what had only been discussed on the fringes and cloaked beneath the code words of "common sense gun control" and "'assault weapons' bans."

The pro-gun crowd reacted predictably as well. All manner of pejoratives were hurled in Stevens' direction, with one of the most oft-used being treasonous. But attacking Stevens as "treasonous" is wrongheaded and misguided. We should thank him for bringing this subject out in the open and confirming what the pro-gun crowd has claimed all along is the ultimate goal of the anti-gun crowd — a charge they have denied up to now.

Besides, amending the Constitution is the most constitutional measure the anti-gun crowd can employ to change gun laws. The Founders were wise enough to understand that the Constitution would need to be changed from time to time. In fact, the 10 Amendments in the Bill of Rights is an admission that the Constitution was inadequate in its protection of basic human rights

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[90] The Heritage Foundation | Report | The Constitution, *THE CURRENT GUN DEBATE: MASS SHOOTINGS*, March 12, 2018. Available online at: https://www.heritage.org/the-constitution/report/the-current-gun-debate-mass-shootings.

[91] John Malcolm and Amy Swearer, *HERE ARE 8 STUBBORN FACTS ON GUN VIOLENCE IN AMERICA*, The Heritage Foundation | Commentary, March 14, 2018. Available online at: https://www.heritage.org/crime-and-justice/commentary/here-are-8-stubborn-facts-gun-violence-america.

and individual liberty, and the document would not have been ratified if not for the promise of the amendments.

Article V of the Constitution lays out the process by which the Constitution may be amended, though the Founders made it a cumbersome process. But Stevens' call for a repeal of the 2nd Amendment — which would require going through the amendment process — is no more treasonous than is the call for an Article V Convention for the purpose of reining in the out-of-control government. Besides, it removes the focus from the historical inaccuracies and fallacious arguments Stevens make in his screed.

In the third paragraph, Stevens writes:

> Concern that a national standing army might pose a threat to the security of the separate states led to the adoption of that amendment, which provides that "a well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed." Today that concern is a relic of the 18th century.

That is sophistry. The Founders, particularly the anti-federalists, did indeed fear a standing army. But that is not the totality of their concern. Article I, Section 8, Clause 16 grants the federal government the power to arm the militia of the several states. Opponents of that power feared that if the general government alone controlled the power to arm the militia, it could also refuse to arm it, thereby leaving the people defenseless.

As Brion McClanahan writes in The Founding Fathers' Guide to the Constitution:

> Both North Carolina and Virginia proposed that "the people have a right to keep and bear arms; that a well regulated militia, composed of the body of the people trained in arms, is the proper, natural, and safe defense of a free states; that standing armies, in times of peace, are dangerous to liberty, and therefore ought to be avoided… Pennsylvania's proposal read, "That the people have a right to bear arms for the defense of themselves and their own state, or the United States, or for the purpose of killing game; no law shall be passed for disarming the people or any of them, unless for crimes committed, or real danger of public injury from individuals…" Melancton Smith offered the following at the New York Ratifying Convention, "that the [general government's] powers to organize, arm, and discipline the militia shall not be construed further than to prescribe the mode of arming and disciplining the same."

The U.S. now has a number of standing armies, and each of them pose a direct threat to the security of the separate states. The first one is obvious; the U.S. military. Although currently tied up in unconstitutional conflicts around the globe and restrained by Posse Commitatus, troops have been used against Americans in the past and could be again. And the U.S. Army National Guard

— and other federal agents and local police — forcibly confiscated thousands of firearms in New Orleans after Katrina.

Beyond the U.S. military, dozens of federal agencies have armed and militarized troops which function as standing armies and assault Americans over the "crimes" of growing unapproved rabbits and hogs, selling raw milk and dredging ponds on their own property. So the "concern" that standing armies might pose a threat is anything but "a relic of the 18th century" as Stevens claims.

In the fourth paragraph, Stevens writes:

> For over 200 years after the adoption of the Second Amendment, it was uniformly understood as not placing any limit on either federal or state authority to enact gun control legislation. In 1939 the Supreme Court unanimously held that Congress could prohibit the possession of a sawed-off shotgun because that weapon had no reasonable relation to the preservation or efficiency of a "well regulated militia."

That is so historically inaccurate it could rightfully be called a lie. When James Madison introduced the amendments[92] to Congress, he sought to insert the following into Article I, Section 9, between clauses 3 and 4:

> The right of the people to keep and bear arms shall not be infringed; a well armed and well regulated militia being the best security of a free country; but no person religiously scrupulous of bearing arms shall be compelled to render military service in person.

Note that Madison's proposal was not to amend the militia clause, but to insert an individual right to "keep and bear arms."

In his Commentaries on the Constitution[93] written in 1833, Supreme Court Justice Joseph Story said of the 2nd Amendment:

> The importance of this article will scarcely be doubted by any persons, who have duly reflected upon the subject. The militia is the natural defence of a free country against sudden foreign invasions, domestic insurrections, and domestic usurpations of power by rulers. It is against sound policy for a free people to keep up large military establishments and standing armies in time of peace, both from the enormous expenses, with which they are attended, and the facile means, which they afford to ambitious and unprincipled rulers, to subvert the government, or trample upon the rights of the people. The right of the citizens to keep and bear arms has justly been considered, as the

[92] https://www.usconstitution.net/madisonbor.html

[93] http://press-pubs.uchicago.edu/founders/documents/amendIIs10.html

> palladium of the liberties of a republic; since it offers a strong moral check against the usurpation and arbitrary power of rulers; and will generally, even if these are successful in the first instance, enable the people to resist and triumph over them. And yet, though this truth would seem so clear, and the importance of a well regulated militia would seem so undeniable, it cannot be disguised, that among the American people there is a growing indifference to any system of militia discipline, and a strong disposition, from a sense of its burthens, to be rid of all regulations. How it is practicable to keep the people duly armed without some organization, it is difficult to see. There is certainly no small danger, that indifference may lead to disgust, and disgust to contempt; and thus gradually undermine all the protection intended by this clause of our national bill of rights.

Story wrote two versions of the commentaries; one for use to educate the public and one for use by the lawyers and judiciary.

In cases before it in the 19th century[94] the Supreme Court ruled that the 2nd Amendment barred the federal government from regulating firearms, but did not bar the states, even though that flew in the face of the Founders' intent in writing the amendment. In United States v. Cruikshank, the court stated that the 2nd Amendment "has no other effect than to restrict the powers of the national government." In *Presser* v. *Illinois*, the court reiterated that the 2nd Amendment "*is a limitation only upon the power of Congress and the National government, and not upon that of the States*."

It wasn't until *United States* v. *Miller* in 1939 that the court suddenly found federal authority to regulate arms that didn't have "*some reasonable relationship to the preservation or efficiency of a well regulated militia*."

It took the Supreme Court's ruling in *District of Columbia* v. *Heller* for the court to finally acknowledge that *the 2nd Amendment confers an individual right to possess a firearm for traditionally lawful purposes*, and *McDonald* v. *City of Chicago* for it to acknowledge *the 2nd Amendment rights are applicable to states through the 14th Amendment*, meaning states cannot infringe on the right to keep and bear arms.

In a letter to a Mr. Jarvis in 1820, Thomas Jefferson warned that ***the federal courts were dangerous to people's liberties***:

> You seem to consider the judges the ultimate arbiters of all constitutional questions; a very dangerous doctrine indeed, and one which would place us under the despotism of an oligarchy. Our judges … and their power [are] the more dangerous as they are in office for life, and are not responsible, as the other functionaries are, to the elective control. The Constitution has erected no such single tribunal, knowing that to whatever hands confided, with the corruptions of time and party, its members

[94] https://www.loc.gov/law/help/second-amendment.php

> would become despots. It has more wisely made all the departments co-equal and co-sovereign within themselves … . When the legislative or executive functionaries act unconstitutionally, they are responsible to the people in their elective capacity. The exemption of the judges from that is quite dangerous enough. I know of no safe depository of the ultimate powers of the society, but the people themselves.

In a letter to Judge Spencer Roan in 1819, he warned that ***judicial tyranny*** made the Constitution a "*thing of wax*:"

> If [as the Federalists say] "***the judiciary is the last resort in relation to the other departments of the government***," … , then indeed is our Constitution a complete *felo de so*. … The Constitution, on this hypothesis, is a mere thing of wax in the hands of the judiciary, which they may twist and shape into any form they may please. It should be remembered, as an axiom of eternal truth in politics, that whatever power in any government is independent, is absolute also; in theory only, at first, while the spirit of the people is up, but in practice, as fast as that relaxes. Independence can be trusted nowhere but with the people in mass. They are inherently independent of all but moral law…

Rather than attacking Stevens and his half-truths and fallacies as treasonous, we should thank him for bringing the goal of the anti-gun left to the fore. It'll be much easier to defeat a direct attack on the 2nd Amendment than defend against the ***judicial tyranny seeking to undermine the constitution based on the whims of a "subtle corps of sappers and miners constantly working underground to undermine our Constitution***," as Jefferson warned. ***History has shown that the judges, as employees of the government, rule in favor of the government in almost all cases***.

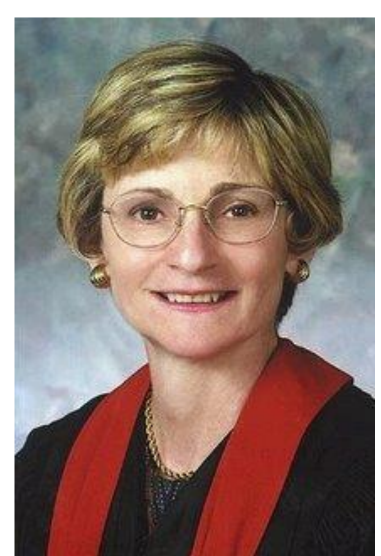
A 2nd Amendment repeal effort will bring the fight out in the open where we can put it to bed once and for all.

APPENDIX 5. MY POLITICAL POEMS SLAMMING THE U.S. SUPREME COURT FOR THEIR DUPLICITY, THEIR MENDACITY, AND KARKISTOCRACY[95] (GOVERNMENT BY THE WORST PEOPLE) ON THE SECOND AMENDMENT

JUDGE EDITH JONES OF THE FIFTH CIRCUIT, "THE AMERICAN LEGAL SYSTEM IS CORRUPT BEYOND RECOGNITION!" (NEWS ARTICLE)

On February 28, 2003 The Judge Edith Jones of the Fifth Circuit Court of Appeals[96] (***became the Chief Judge of the Fifth Circuit on January 16, 2006***) told the Federalist Society of Harvard Law School that the American legal system is corrupt almost beyond recognition.[97]

She said that the question of what is morally right is routinely sacrificed to what is politically expedient. **The change has come because legal philosophy has descended to *nihilism***.



"The first 100 years of American lawyers were trained on Blackstone, who wrote that: 'The law of nature–dictated by God himself–is binding in all counties and at all times; no human laws are of any validity if contrary to this; and such of them as are valid derive all force and all their authority from this original.' The Framers created a government of limited power with this understanding of the rule of law – that it was dependent on transcendent religious obligation," said Jones.

"This is not a prescription for intolerance or narrow sectarianism for unalienable rights were given by God to all our fellow citizens. Having lost sight of the moral and religious foundations of the rule of law, we are vulnerable to the destruction of our freedom, our equality before the law and our

---

[95] https://en.wikipedia.org/wiki/Kakistocracy

[96] https://en.wikipedia.org/wiki/Edith_Jones

[97] No longer available online at www.massnews.com/2003Editions/3_March/030703_mn_american_legal_ system_corrupt.shtml. The account was suspended.

self-respect. It is my fervent hope that this new century will experience a revival of the original understanding of the rule of law and its roots."

Threats to the Rule of Law

The legal system itself.
The government.
The most comprehensive threat is contemporary legal philosopy.

"Throughout my professional life, American legal education has been ruled by theories like positivism, the residue of legal realism, critical legal studies, post-modernism and other philosophical fashions," said Jones. *"Each of these theories has a lot to say about the 'is' of law, but none of them addresses the 'ought,' the moral foundation or direction of law."*

Jones quoted Roger C. Cramton, a law professor at Cornell University, who wrote in the 1970s that *"the ordinary religion of the law school classroom" is "a moral relativism tending toward* ***nihilism****, a pragmatism tending toward an amoral instrumentalism, a realism tending toward cynicism, an individualism tending toward atomism, and a faith in reason and democratic processes tending toward mere credulity and idolatry."*

Jones said that all of these threats to the rule of law have a common thread running through them, and she quoted Professor Harold Berman to identify it: *"The traditional Western beliefs in the structural integrity of law, its ongoingness, its religious roots, its transcendent qualities, are disappearing not only from the minds of law teachers and law students but also from the consciousness of the vast majority of citizens, the people as a whole; and more than that, they are disappearing from the law itself. The law itself is becoming more fragmented, more subjective, geared more to expediency and less to morality. The historical soil of the Western legal tradition is being washed away and the tradition itself is threatened with collapse."*

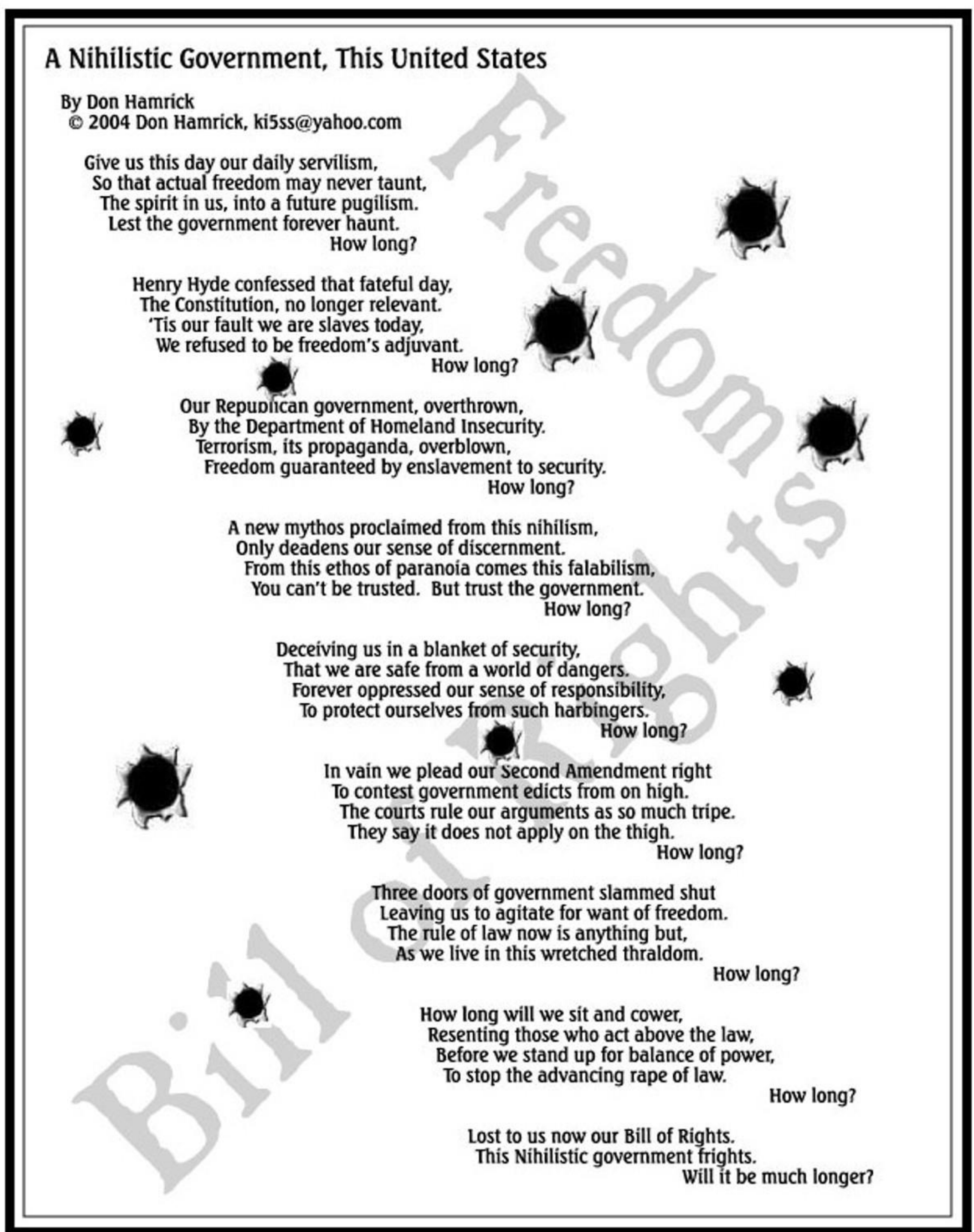
Judge Jones concluded with another thought from George Washington: *"Of all the dispositions and habits which lead to prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism who should labor to subvert these great pillars of human happiness – these firmest props of the duties of men and citizens."*

Upon taking questions from students, Judge Jones recommended Michael Novak's book, ***On Two Wings: Humble Faith and Common Sense.***

"Natural law is not a prescriptive way to solve problems," Jones said. *"It is a way to look at life starting with the* ***Ten Commandments****."*

1. A Nihilistic Form of Government, This United States! (Political Poem)

Judge Edith Jones' remarks inspired me to write my nihilistic poem which I include here:



A Nihilistic Government, This United States

By Don Hamrick
© 2004 Don Hamrick, ki5ss@yahoo.com

Give us this day our daily servilism,
So that actual freedom may never taunt,
The spirit in us, into a future pugilism.
Lest the government forever haunt.
How long?

Henry Hyde confessed that fateful day,
The Constitution, no longer relevant.
'Tis our fault we are slaves today,
We refused to be freedom's adjuvant.
How long?

Our Republican government, overthrown,
By the Department of Homeland Insecurity.
Terrorism, its propaganda, overblown,
Freedom guaranteed by enslavement to security.
How long?

A new mythos proclaimed from this nihilism,
Only deadens our sense of discernment.
From this ethos of paranoia comes this falabilism,
You can't be trusted. But trust the government.
How long?

Deceiving us in a blanket of security,
That we are safe from a world of dangers.
Forever oppressed our sense of responsibility,
To protect ourselves from such harbingers.
How long?

In vain we plead our Second Amendment right
To contest government edicts from on high.
The courts rule our arguments as so much tripe.
They say it does not apply on the thigh.
How long?

Three doors of government slammed shut
Leaving us to agitate for want of freedom.
The rule of law now is anything but,
As we live in this wretched thraldom.
How long?

How long will we sit and cower,
Resenting those who act above the law,
Before we stand up for balance of power,
To stop the advancing rape of law.
How long?

Lost to us now our Bill of Rights.
This Nihilistic government frights.
Will it be much longer?

A Nihilistic Form of Government, This United States!

By Don Hamrick
© 2004 Don Hamrick

Give us this day our daily servilism,
So that actual freedom may never taunt,
The spirit in us, into a future pugilism.
Lest the government forever haunt.
……………………………………………How long?

Henry Hyde confessed that fateful day,
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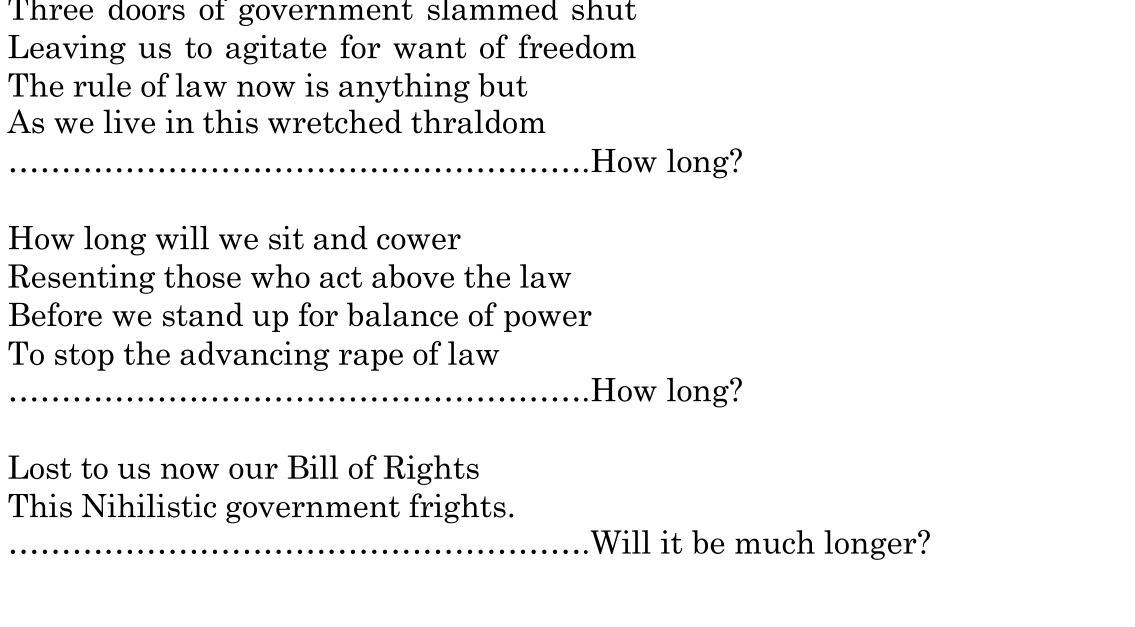


Three doors of government slammed shut
Leaving us to agitate for want of freedom
The rule of law now is anything but
As we live in this wretched thraldom
……………………………………………How long?

How long will we sit and cower
Resenting those who act above the law
Before we stand up for balance of power
To stop the advancing rape of law
……………………………………………How long?

Lost to us now our Bill of Rights
This Nihilistic government frights.
……………………………………………Will it be much longer?

See also, *www.keepandbeararms.com/newsarchives/XcNewsPrint.asp?cmd=view&articleid=2975*

Excerpt from Francis Knize, *MINNESOTA; WHITE-COLLAR CRIME MIXED WITH JUDICIAL CORRUPTION*, National Forum on Judicial Accountability,[98] March 26, 2010 (*Online letter to John Stossel and the Fox Business Network Team*)

> White collar crime in America is "alive and well" as evidenced by the recent Ponzi debacles of their orchestrators, Madoff, Petters, Stanford, Rothstein, Trevor Cook et al. What do they all have in common? A prolonged reign of terror by financial predators who amass such large cash stashes, that no one can reach them in a court of law—and if anyone has the audacity to sue one of them, such predators will crush their victims in court with high paid lawyers who have the judges on their payroll.
>
> No one really likes to talk about this because of a belief that "*no one is above the law*" which is true **with the exception of the judges**. **It is interesting to note that USAG John Ashcroft referred to our courts as "organized crime".**

[98] http://50states.ning.com/video/minnesota-whitecollar-crime

<u>Chief Judge Edith Jones (Fifth Circuit Court of Appeals in Houston, Texas) averred that the "*American Legal System Is Corrupt beyond Recognition.*</u>" Who has the power to fix this? Congress—but House Judiciary Chair John Conyers (with impeachment power) has failed to act despite numerous briefings by distinguished groups and citizens for years.

Is there hope? Yes, by and though an inquisitive media which will expose such unremedied corruption and by so doing, force congress to clean up our corrupt courts. John Stossel we believe has such requisite curiosity.

---

2. AMERICAN MERCHANT SEAMEN IN HARM'S WAY (POLITICAL POEM)

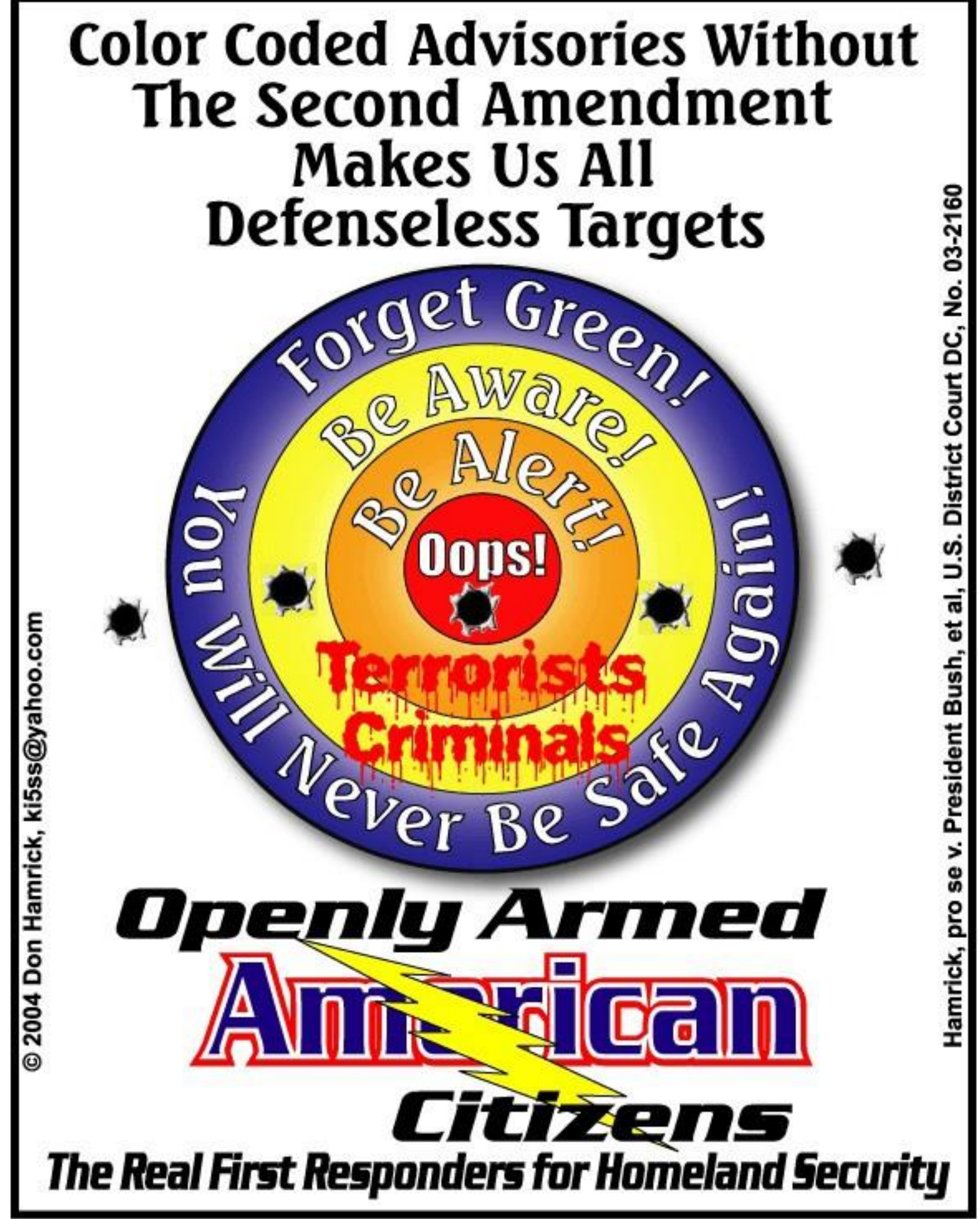
By Don Hamrick
© 2004 Don Hamrick

Pirates by sea, terrorists by land.
Through hostile waters we sailors dare steam,
Defensive weapons denied our hand.
Not the law of land or sea it would seem.

Without rhyme or reason, September
11, a day of slaughter. Security now
a perpetual season. Arm ourselves
now! Sailors oughta!

Pirates and terrorists armed to the teeth,
With every blade and firepower within reach,
Against sailors defenseless as sheep.
For to arm sailors liberals would screech,

Would cause the Bill of Rights
To become our steering light.


Color Coded Advisories Without
The Second Amendment
Makes Us All
Defenseless Targets
Forget Green!
Be Aware!
Be Alert!
Oops!
Terrorists
Criminals
You Will Never Be Safe Again!
© 2004 Don Hamrick, ki5ss@yahoo.com
Hamrick, pro se v. President Bush, et al, U.S. District Court DC, No. 03-2160
Openly Armed
American
Citizens
The Real First Responders for Homeland Security

3. Cataclysms (Political Poem)

Cataclysms

(A poem in Diamante form)
By Don Hamrick © 2005
Thursday, April 20, 2006

Freedom
Independence, autonomy
Speaking, associating, traveling
Action, responsibility, permission,
dependence
Obedience, submission, oppression
Laws, regulations
Slavery

Speech
Dialog, lecture
Learning, questioning, teaching
Research, email, government, investigate
Harassing, intimidating, threatening
Coercive, abusive
Silence

Association,
Mingle, join
Participating, discriminating, voting
Society, congress, estrangement, alienation
Disassembling, segregating, dividing
Suppression, stealth
Isolation

Judges
Constitutional, law
Deliberating, theorizing, concluding
Adjudicator, marshal, partisan, crony
Corrupting, lying, betraying
Biased, prejudiced
Criminals

Government
Guidance, balance
Regulating, administrating, delegating
Republic, commonwealth, nihilistic, despotic
Racketeering, marauding, transgressing
Indiscriminate, desultory
Anarchy

4. JUSTICE RUTH BADER GINSBURG HAILING FROM THE TOWER OF BABEL (POLITICAL POEM)

Thursday, April 20, 2006

Conservative Judges v. Liberal Justices

In August 1, 2003 Justice Ruth Bader Ginsburg[99] [3] gave a lecture at the American Constitution Society,[4]a[100] liberal organization, on the Lone Ranger mentality of the United States standing apart from other nations who do not have such a high regard for individual rights and freedoms. I could not resist the opportunity to make a parody of her speech. Her unpatriotic remarks did not go unnoticed.

On April 1, 2005 Justice Ruth Bader Ginsburg gave a speech at *THE 99TH ANNUAL MEETING OF THE AMERICAN SOCIETY OF INTERNATIONAL LAW ON VALUE OF A COMPARATIVE PERSPECTIVE IN CONSTITUTIONAL ADJUDICATION*.

Her first words cited Deuteronomy 16:20 that is not from the King James Bible.

THE OUTRAGE: *"Before taking up the diversity of opinions on this matter, I will state and endeavor to explain my view, which is simply this: If U. S. experience and decisions can be instructive to systems that have more recently instituted or invigorated judicial review for constitutionality, so we can learn from others now engaged in measuring ordinary laws and executive actions against charters securing basic rights."*

The King James Bible is the basis for the Code of Judicial Conduct "The Canons of Ethics."

The King James Bible, Deuteronomy 16:18-20,

18: Judges and officers shalt thou make thee in all thy gates, which the Lord thy God giveth thee, throughout thy tribes; and they shall judge the people with just judgment.

19: Thou shalt not wrest judgment; thou shalt not respect persons, neither take a gift; for a gift doth blind the eyes of the wise, and pervert the words of the righteous.

20: That which is altogether just shalt thou follow, that thou mayest live, and inherit the land which the Lord thy God giveth thee.

---

[99] http://eagleforum.org/column/2003/aug03/03-08-20.shtml

[100] https://www.acslaw.org/

In light of her political activism I wrote the poem, *Hailing From the Tower of Babble*, next page, in defiance of her goals to bastardize our Constitution with foreign court opinions in matters having no jurisdiction to foreign courts:

Hailing From the Tower of Babel
by Don Hamrick
©2005 Don Hamrick

Ruth Bader Ginsburg chanting from an uncommon Writ
"Justice, justice shall you pursue, that you may thrive!"
Where, O' where may our justice be found? Infers the twit,
But in the security of foreign lands to contrive!

O' what Bible does this Supreme Court Justice follow?
Her read is certainly not from the King James!
She will have us pursue justice as some elusive swallow
Always beyond our reach, to spite her claims.

We can ignore our Constitution, she implies,
Because it no longer controls our authority.
Comparative analysis, will protect us, she belies
Against all threats in the global fratority.

O' contraire! We, the People say,
Our Constitution is altogether just!
We shall follow the Constitution for our sake!
We say what it means, as we must!"

King James' Deuteronomy is my comparative analysis
The Supreme Court today is our Tower of Babel
As we are held in this awkward state of paralysis,
Because there is no sense to Ginsburg's rabble.

Defiant lines are drawn! Is civil war sensed?
Our highest court split by globalists' sophistry.
Judicial review in league to conspire against,
Popular constitutionalism finding its place in history.

Oh! Dear God, I pray to thou!
For answers in these troubled days.
Why hast thine judges forsaken thee?
With no force of arms we are as slaves.

Amen.

APPENDIX 6. ARTICLES ON FALSE CONVICTIONS

1986

Bruce K. Miller and Neal Devins, *CONSTITUTIONAL RIGHTS WITHOUT REMEDIES: JUDICIAL REVIEW OF UNDERINCLUSIVE LEGISLATION*, College of William & Mary Law School, (1986). Faculty Publications. Paper 407. Available online at http://scholarship.law.wm.edu/facpubs/407

Right to a Remedy

The roots of the proposition that the fashioning of a remedy for a constitutional wrong is essential to the process of judicial review can be traced at least as far back as Blackstone and, through him, to Marbury v. Madison.[101] In the Commentaries on the Laws of England, Blackstone wrote:

It is a general and indisputable rule, that where there is a legal right, there is also a legal remedy by suit, or action at law, whenever that right is invaded .... It is a settled and invariable principle in the laws of England, that every right, when withheld, must have a remedy, and every injury its proper redress.[102]

In a similar vein, Chief Justice Marshall wrote in Marbury:

> The very essence of civil liberty lies in the right of the individual to claim the protection of the laws whenever he receives an injury .... The government of the United States has been emphatically termed a government of laws and not of men. It will certainly cease to observe this high appellation if the laws furnish no remedy for the violation of a vested legal right.[103]

More recently, the Supreme Court's landmark 1946 decision in *Bell* v. *Hood*[104] underscored the centrality of a court's remedial power to the exercise of the judicial function. In holding that a damage action against FBI officers for violations of the Fourth and Fifth Amendments was within the federal question jurisdiction granted to district courts, the Court, speaking through Justice Black, noted that:

> It is established practice for this Court to sustain the jurisdiction of federal courts to issue injunctions to protect rights safeguarded by the Constitution and to restrain

[101] 5 U.S. (I Cranch) 137 (1803).

[102] 3 W. Blackstone, Commentaries, •23, •109.

[103] *Marbury* v. *Madison*, 5 U.S. (I Cranch) 137, 163 (1803).

[104] 327 U.S. 678 (1946).

> individual state officers from doing what the Fourteenth Amendment forbids the state to do. Moreover, where federally protected rights have been invaded, it has been the rule from the beginning that courts will be alert to adjust their remedies to grant the necessary relief. And it is also well settled that where legal rights have been invaded and a federal statute provides for a central right to sue for that invasion, federal courts may use any available remedy to make good the wrong done.[105]

2006

Rodney J. Uphoff, ***CONVICTING THE INNOCENT: ABERRATION OR SYSTEMIC PROBLEM?***,[106] U of Missouri-Columbia School of Law Legal Studies Research Paper No. 2006-20 (Posted at papers.ssrn.com: June 27, 2006); (Wisconsin Law Review, Forthcoming).

ABSTRACT: In practice, the right to adequate defense counsel in the United States is disturbingly unequal. Only some American criminal defendants actually receive the effective assistance of counsel. Although some indigent defendants are afforded zealous, effective representation, many indigent defendants and almost all of the working poor are not. The quality of representation a defendant receives generally is a product of fortuity, of economic status, and of the jurisdiction in which he or she is charged. For many defendants, the assistance of counsel means little more than counsel's help in facilitating a guilty plea. With luck, money, and location primarily determining whether a defendant has meaningful access to justice in this country, the promise of equal justice remains illusory.

Providing defendants access to competent counsel with the time and resources to meaningfully test the prosecution's case is a badly needed step that would enhance the fairness and reliability of our criminal justice system. It is, however, just one step in fixing a "broken system." For even the presence of a capable defense lawyer does not necessarily ensure that the innocent will, in fact, go free. Contrary to popular wisdom, our system of justice does not overprotect criminal defendants, thereby minimizing the conviction of the innocent. Rather, our state criminal justice systems, as they currently operate, inadequately protect those wrongfully accused of crimes.

Arnold H. Loewy, ***SYSTEMIC CHANGES THAT COULD REDUCE THE CONVICTION OF THE INNOCENT***,[107] UNC Legal Studies Research Paper No. 927223 (August 30, 2006).

ABSTRACT: In an ideal world, juries would always reach the correct result. In theory, we believe that the second best choice is to err on the side of

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[105] *Id.* at 684.

[106] https://papers.ssrn.com/sol3/papers.cfm?abstract_id=912310

[107] https://papers.ssrn.com/sol3/papers.cfm?abstract_id=927223

acquitting the guilty rather than convicting the innocent. We say that it is better to acquit ten guilty men than convict one who is innocent. But I'm not sure that we really believe it. Would we really let ten child molesters walk the street to avoid convicting one innocent one? I have my doubts.

Although we think the system is tilted to protect defendants, it may not be. Juries may not really believe in the "presumption of innocence." Furthermore the prosecutor usually has far more resources than the defense. Searches have to be reasonable, but at least the government can conduct them. The defense cannot. More generally, the prosecution has a professional police force investigating for it, and greater access to forensic testing. If the prosecutor wishes to frame a suspect (which fortunately is not the norm) it may not be all that difficult.

I conclude with four suggestions that are predicated on the reality that wrongful convictions happen.

> (1) There should be **innocence commissions** set up similar to the British model.
>
> (2) **Defenses should not be artificially limited**. For example, pending the outcome of a U.S. Supreme Court case, a State can (and some do) deny the defendant the opportunity to present evidence that somebody else committed the crime.
>
> (3) As long as we know there are mistakes, capital punishment should be abolished (as most of the civilized world has). And
>
> (4) parole should not be contingent on a person's admitting his guilt. This presents an untenable dilemma for an innocent person, and may actually cause him to spend more time in prison than a similarly-situated guilty one.

2008

Citing: Samual R. Gross, ***CONVICTING THE INNOCENT***: *4 Annual Review of Law and Social Science 173-192*,[108] (December 1, 2008).

ABSTRACT: Almost everything we know about false convictions is based on exonerations in rape and murder cases, which together account for only 2% of felony convictions. Within that important but limited sphere we have learned a lot in the past 30 years; outside it, **our ignorance is nearly complete**.[109] This review describes what we now know about convicting the innocent: estimates of the rate of false convictions among death sentences; common causes of false conviction for rape or murder; demographic and procedural predictors of such errors. It also explores some of the types of false convictions that almost never come to light—innocent defendants who plead guilty rather than go to trial, who receive comparatively light sentences, **who are**

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108 https://www.annualreviews.org/doi/abs/10.1146/annurev.lawsocsci.4.110707.172300

109 My emphasis.

convicted of crimes that did not occur (as opposed to crimes committed by other people), who are sentenced in juvenile court—in fact, *almost all innocent defendants who are convicted of any crimes other than rape or murder*. Judging from what we can piece together, the vast majority of false convictions fall in these categories. They are commonplace events, inconspicuous mistakes in ordinary criminal investigations that never get anything close to the level of attention that sometimes leads to exoneration.

2009

Fred C. Zacharias (University of San Diego School of Law), Bruce A. Green (Fordham University School of Law), ***THE DUTY TO AVOID WRONGFUL CONVICTIONS: A THOUGHT EXPERIMENT IN THE REGULATION OF PROSECUTORS***,[110] Boston University Law Review, Vol. 89, Spring 2009, (Written February 2, 2009; Last revised: July 10, 2009) (San Diego Legal Studies Paper No. 09-007);

ABSTRACT: ***This Article explores the possible role of the attorney disciplinary process in discouraging prosecutorial conduct that contributes to false convictions***. ***It asks what the impact would be, for better or worse, of disciplining prosecutors for incompetence when they fail to exercise reasonable care to prevent the conviction of the innocent***. The inquiry provides a new vehicle for thinking about ***the nature of the disciplinary process, the work of prosecutors, the challenge of preventing erroneous convictions and, ultimately, the complexities of prosecutorial regulation***.

The Article demonstrates that it would be plausible to interpret the attorney competence rule as encompassing prosecutorial negligence and identifies various potential benefits of doing so. But the Article also identifies and analyzes significant normative and institutional objections that might be raised. The Article concludes that there are serious problems with employing the competence rule as proposed and that these problems are inherent in the use of discipline to regulate prosecutors.

This analysis suggests that the historical under-utilization of discipline in regulating prosecutors may not result exclusively from insufficient resources or a lack of will on the part of disciplinary regulators, as some have argued. ***The Article's illustration of the inherent limitations of the disciplinary process highlights the need for renewed attention to alternative regulatory processes***. These include civil liability, which currently is foreclosed by prosecutorial immunity doctrines, and more robust internal regulation.

[110] https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1336765

2010

Jon B. Gould & Richard A. Leo, One hundred years later: Wrongful Convictions After A Century of Research, 100 The Journal of Criminal Law & Criminology 825-68 (2010)

ABSTRACT: *In this Article, the authors analyze a century of research on the causes and consequences of wrongful convictions in the American criminal justice system while explaining the many lessons of this body of work. This Article chronicles the range of research that has been conducted on wrongful convictions; examines the common sources of error in the criminal justice system and their effects; suggests where additional research and attention are needed; and discusses methodological strategies for improving the quality of research on wrongful convictions. The authors argue that traditional sources of error (eyewitness misidentification, false confessions, perjured testimony, forensic error,* ***tunnel vision, prosecutorial misconduct****;*[111] *ineffective assistance of counsel, etc.) are contributing sources, not exclusive causes, of wrongful convictions. They also argue that the research on wrongful convictions has uncovered a great deal about how these sources operate and what might prevent their effects. Finally, the authors urge criminal justice professionals and policymakers to take this research more seriously and apply the lessons learned from a century of research into wrongful convictions.*

C. THE SOURCES OF WRONGFUL CONVICTIONS

3. Tunnel Vision

Like any of us, police officers and prosecutors are susceptible to tunnel vision. That is, the more law enforcement practitioners become convinced of a conclusion-in this case, a suspect's guilt-the less likely they are to consider alternative scenarios that conflict with this conclusion. As Findley and Scott explain more comprehensively, when criminal justice professionals "focus on a suspect, select and filter the evidence that will 'build a case' for conviction, while ignoring or suppressing evidence that points away from guilt,",131[112] they are at risk of "locking on" to the wrong suspect and inadvertently leading to his continued prosecution and conviction.

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[111] My emphasis as applicable to my case.

[112] Keith Findley & Michael Scott, *THE MULTIPLE DIMENSIONS OF TUNNEL VISION IN CRIMINAL CASES*, 2006 Wisconsin Law Review 291, 292.

Tunnel vision can occur at any point in the criminal justice process. 132[113] … Any of these possibilities may explain why innocent individuals are named as suspects and prosecuted all the way to a conviction. These are not just theoretical possibilities; the many case studies of wrongful convictions show these errors are real and have grievous consequences.[114]

6. Prosecutorial Misconduct

For the most part, American prosecutors conduct themselves ethically, seeking to mete out justice even if it means dismissing charges against a defendant whose criminality they suspect but cannot establish. Still, prosecutors may engage in overly suggestive witness coaching,[115] 150 offer inappropriate and incendiary closing arguments,[116] 151 or fail to disclose critical evidence to the defense, all of which may raise the prospect of a wrongful conviction. ***In research on wrongful convictions, the most commonly established transgression is the prosecution's failure to turn over exculpatory evidence****.* ***Sometimes police officers do not provide prosecutors with this evidence in order to make it available to the defense****, or prosecutors may not be aware that they have such information in their files.* ***In other cases, though, the misdeeds are intentional.***

2011

Marvin Zalman, Matthew J. Larson, Brad Smith, ***CITIZENS' ATTITUDES TOWARD WRONGFUL CONVICTIONS***, 37 Criminal Justice Review 51 (December 8, 2011).[117]

ABSTRACT: Perhaps no problem challenges the legitimacy of the criminal justice system more than the conviction of factually innocent individuals. Numerous highly publicized exonerations that occurred since 1989 have raised the visibility of wrongful conviction, eliciting the attention of both scholars and policy makers. Much of the research in this area focuses on the causes and incidence of the phenomenon. Despite the growing body of research, however, there has been no examination of how citizens view this problem. Using data

113 See Myrna Raeder, What Does Innocence Have to Do with It?: A Commentary on Wrongful Convictions and Rationality, 2003 Michigan St. Law Review 1315.

114 See Jon Gould, The Innocence Commission: Preventing Wrongful Convictions And Restoring The Criminal Justice System (2007).

115 See Bennett L. Gershman, Effective Screening For Truth Telling: Is It Possible? Witness Coaching By Prosecutors, 23 Cardozo Law Review 829 (2002).

116 Andrea Elliott & Benjamin Weiser, When Prosecutors Err, Others Pay the Price; Disciplinary Action Is Rare After Misconduct or Mistakes, N.Y. Times, Mar. 21, 2004, at N25.

117 http://journals.sagepub.com/doi/abs/10.1177/0734016811428374

from a statewide survey of Michigan residents, the present study aims to fill that gap in the literature by reporting on citizens' attitudes regarding the issue of wrongful conviction. Overall, the results of this exploratory study suggest that respondents not only recognize the incidence of wrongful conviction but also believe that such errors occur with some regularity. Further results show that respondents believe wrongful convictions occur frequently enough to justify major criminal justice system reform. Attitudes varied significantly across demographic groups as well. Additional findings and policy implications are discussed.

2012

Pamela S. Karlan, *WHAT'S A RIGHT WITHOUT A REMEDY?*, Boston Review (A Political and Literary Forum), March 1, 2012. Available online at http://bostonreview.net/pamela-karlan-supreme-court-rights-legal-remedies

In the momentous 1803 case *Marbury* v. *Madison*, Chief Justice Marshall observed that the "*very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury" and warned that a government cannot be called a "government of laws, and not of men . . . . if the laws furnish no remedy for the violation of a vested legal right*."

2013

C. R. Huff & M. Killias editors., ***HOW MANY FALSE CONVICTIONS ARE THERE? HOW MANY EXONERATIONS ARE THERE? | WRONGFUL CONVICTIONS AND MISCARRIAGES OF JUSTICE: CAUSES AND REMEDIES IN NORTH AMERICAN AND EUROPEAN CRIMINAL JUSTICE SYSTEMS***,[118] Routledge, March 2013, U of Michigan Public Law Research Paper No. 316, February 26, 2013 (Last revised: 12 Mar 2013).

ABSTRACT: The most common question about false convictions is also the simplest: How many are there? The answer, unfortunately, is almost always the same and always disappointing: We don't know. Recently, however, we have learned enough to be able to qualify our ignorance in two important respects. We can put a lower bound on the frequency of false convictions among death sentences in the United States since 1973, and we have some early indications of the rate of false convictions for rape in Virginia in the 1970s and early 1980s. These new sources of information suggest – tentatively – that the rate of false convictions for serious violent felonies in the United States may be somewhere in the range from 1% to 5%. Beyond that – for less serious crimes and for other countries – our ignorance is untouched.

[118] https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2225420

2016

Marvin Zalman, ***WRONGFUL CONVICTIONS: A COMPARATIVE PERSPECTIVE***,[119] Wayne State University, May 4, 2016.

> **ABSTRACT**: Wrongful conviction becomes a social problem when innocence consciousness arises, meaning that a significant number of people view miscarriages of justice as caused by correctible systemic factors, and not as inevitable failures of courts. The term "wrongful conviction" encompasses procedurally flawed court convictions and the convictions of factually innocent defendants (i.e., false convictions). There is no definitive way to measure the incidence of false convictions, but American experts estimate plausible rates of from 1 to 3 percent, which translates to tens of thousands falsely convicted each year. Three case studies — the United States, England, and China — demonstrate that innocence consciousness occurred at different times, subject to different social stimuli, leading to different citizen and governmental responses in each country. **Wrongful convictions are now viewed as a social problem globally**. Wrongful conviction research, conducted mostly by psychologists and lawyers, would benefit from studies by social scientists.

James R. Acker, ***TAKING STOCK OF INNOCENCE | MOVEMENTS, MOUNTAINS, AND WRONGFUL CONVICTIONS***,[120] 33 Journal of Contemporary Criminal Justice 8-25, (October 7, 2016).

> **ABSTRACT**: This article offers a brief overview of the current state of the Innocence Movement. It begins by reviewing what we know, and do not know, about the incidence of wrongful convictions and their correlates and causes. It then explores select issues that should receive greater attention to help sustain the Innocence Movement and ensure its advancement. Acknowledging that much has been learned about wrongful convictions and that important reforms have been enacted, the article concludes by observing that significant challenges remain and must be addressed before efforts to guard against convicting the innocent are relaxed.

Robert Montenegro, *AMERICA HAS A HORRIFIC WRONGFUL CONVICTION PROBLEM*, www.bigthink.com, (online publication date: "over a year ago." Actual date not posted.) Available online at http://bigthink.com/robert-montenegro/record-number-of-exonerations.

> "*A new report has shed a frightening light on one of America's most veiled dilemmas — the false conviction. It's the type of injustice that poses a major threat to the nation's most vulnerable, as well as a perceived threat to a criminal justice system not keen on second-guessing itself. That reticence will need to change, and soon, as new data on false imprisonments suggest a greater national problem than most realize.*

[119] https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2899482

[120] http://journals.sagepub.com/doi/abs/10.1177/1043986216673008

Efforts to remedy the issue will be possible only after we as a society take a long look in the mirror past the face we want to see, and at the face we have."

. . . "*The tactics used to get convictions are not always employed with righteousness in mind. Society must become more aware that justice is not always served, and be prepared to grapple with that truth's implications.*"

Lorenzo Johnson, *IS THERE A CURE FOR WRONGFUL CONVICTIONS?*, Huffington Post: THE BLOG, May 27, 2016 (Updated May 28, 2017). Available online at https://www.huffingtonpost.com/lorenzo-johnson/is-there-a-cure-for-wrong_b_10162246.html

"For decades, we have been witnessing the evolution of exonerations for wrongful convictions. There was a time when an innocent prisoner being exonerated was world news—now, it's an everyday occurrence. According to the National Registry of Exonerations, last year saw a new record, with an average of three innocent prisoners being exonerated every week. Exonerations are so common now that some don't even make the local news. Although the rise in exonerations is good news, we haven't "fixed" the problem yet, by any stretch of the imagination. We've only scratched the surface of the thousands of innocent men and women who have been falsely convicted."

"The main reasons behind wrongful convictions are ineffective assistance of counsel, false testimony, police and prosecutorial misconduct, misident-ification, junk science, false confessions, and evidence suppression (including DNA evidence). ...

"Official misconduct was identified as the cause in 65 exonerations in 2015, another record."

"Some limited steps are being taken to address wrongful convictions. In 2015, there were 24 "conviction integrity units" (CIUs) operating within prosecutors' offices tasked with preventing, identifying and correcting false convictions. This is double the number of CIUs in 2013 and quadruple the number in 2011. But half of these units have yet to be involved in a single exoneration, and as the National Registry of Exonerations points out, several "have no contact information that's publicly available on the web or by telephone, including some that have been in operation for years."

"Our criminal justice system continues to fail innocent prisoners because of the structures and statutes that legislators refuse to change. There are no safeguards in place to protect the innocent. Habeas corpus protection has been literally gutted, putting more and more limits on defendants' access the courts. Who does this affect the most? The innocent."

"Meanwhile, what laws have been enacted concerning penalties when officers of the court are found liable for a wrongful conviction? None! If a person is found guilty of murder, they are sentenced to a mandatory sentence. A false conviction takes an innocent life as well by sentencing that person to life in prison, but where is the punishment for the officers of the court who are responsible?"

... "But where are our political leaders? Why has our government yet to intervene when there have been record numbers of exonerations for the past two years? Why is this not part of the conversation when prison reform is discussed?"

"What also needs to stop is the fact that innocent prisoners are targeted when we speak out about our injustice. We are not "whistleblowers," we are human beings whose lives have been taken for crimes we never committed. The judicial system shouldn't be outraged that we are speaking out, they should be outraged that these heinous acts by court officials ever took place."

"Police and prosecutors need to take more active roles in the review and reversal of factually erroneous convictions. Efforts need to step up at the front end, because once a conviction becomes final, the path to exoneration is fraught with so many obstacles. How long will our suffering last?"

2017

Samuel R. Gross, ***WHAT WE THINK, WHAT WE KNOW AND WHAT WE THINK WE KNOW ABOUT FALSE CONVICTIONS***,[121] University of Michigan Law School, U of Michigan Public Law Research Paper No. 537 (February 21, 2017; Last revised: June 3, 2017); Ohio State Journal of Criminal Law, Vol. 14, No. 2, 2017 (Forthcoming);

ABSTRACT: False convictions are notoriously difficult to study because they can neither be observed when they occur nor identified after the fact by any plausible research strategy. Our best shot is to collect data on those that come to light in legal proceedings that result in the exoneration of the convicted defendants. In May 2012, the National Registry of Exonerations released its first report, covering 873 exonerations from January 1989 through February 2012. By October 15, 2016, we had added 1,027 cases: 599 exonerations since March 1, 2012, and 428 that had already happened when we issued our initial report but were not known to us. In this paper I discuss what can and cannot be learned from the exonerations that we have collected. The cases we find and list are not a complete set of all exonerations that occur—not nearly—but it's clear from the patterns we see in known exonerations that false convictions outnumber exonerations by orders of magnitude. We cannot estimate the rate of false convictions or their distribution across crime categories. We can confidently say, however, that they are not rare events—and other research

[121] https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2921678

has estimated the rate of false convictions among death sentences at 4.1%, which provides an anchor for estimates of the rate for other violent crimes. We know that several types of false or misleading evidence contribute to many erroneous convictions (eyewitness misidentifications, false confessions, bad forensic science, perjury and other lies), as does misbehavior by those who process criminal cases: misconduct by police and prosecutors; incompetence and laziness by defense attorneys. Beyond that, we cannot say how false convictions are produced. It's clear, however, from the relative prevalence of these factors that the process differs radically from one type of crime to another. Data from one local jurisdiction (Harris County, Texas) strongly suggest that across the country thousands if not tens of thousands of innocent defendants a year plead guilty to misdemeanors and low-level felonies in order to avoid prolonged pretrial detention. And our data clearly show that innocent African Americans are much more likely to be wrongfully convicted of crimes than innocent whites, in part because of higher criminal participation in the African American community and in part because of discrimination.

APPENDIX 7 MY APPEALS AT THE 8TH CIRCUIT

U.S. COURT OF APPEALS FOR THE 8TH CIRCUIT, ST. LOUIS

Case Number Title	Opening Date	Party	Last Docket Entry	Originating Case Number Origin
07-1644 Don Hamrick v. President George Bush, et al	03/21/2007	Don Hamrick	05/25/2007 12:53:02	0860-1 : 1:06-cv-00044-GH U.S. District Court for the Eastern District of Arkansas - Batesville
07-2400 Don Hamrick v. President George Bush, et al	06/18/2007	Don Hamrick	12/19/2007 10:52:46	0860-1 : 1:06-cv-00044-JMM U.S. District Court for the Eastern District of Arkansas - Batesville
18-1053 Don Hamrick v. Mark Derrick	01/05/2018	Don Hamrick	03/22/2018 10:10:35	0860-4 : 4:17-mc-00018-JM U.S. District Court for the Eastern District of Arkansas - Little Rock

General Docket
Eighth Circuit Court of Appeals

Court of Appeals Docket #: 18-1053 **Nature of Suit:** 3890 Other Statutory Actions Don Hamrick v. Mark Derrick **Appeal From:** U.S. District Court for the Eastern District of Arkansas - Little Rock **Fee Status:** In Forma Pauperis	**Docketed:** 01/05/2018 **Termed:** 01/17/2018

Case Type Information:

1) Civil

2) Private

3) null

Originating Court Information:

District: 0860-4 : 4:17-mc-00018-JM

Trial Judge: James M. Moody, Junior, U.S. District Judge

Date Filed: 10/10/2017

Date Order/Judgment:	**Date NOA Filed:**	**Date Rec'd COA:**
10/26/2017	01/03/2018	01/03/2018

Prior Cases:

None

Current Cases:

None

Don Hamrick Plaintiff - Appellant	Don Hamrick Direct: 501-742-1340 [NTC Pro Se]

v. Mark Derrick, Judge Defendant - Appellee	322 Rouse Street Kensett, AR 72082

Don Hamrick

Plaintiff - Appellant

v.

Mark Derrick, Judge

Defendant - Appellee

01/05/2018	4 pg, 23.39 KB	Civil case docketed. [4617487] [18-1053] (AEV) [Entered: 01/05/2018 03:29 PM]
01/05/2018	9 pg, 220.14 KB	Originating court document filed consisting of notice of appeal, Order 10/26/17, Judgment 10/26/17, Order granting IFP 1/3/18, docket entries, [4617489] [18-1053] (AEV) [Entered: 01/05/2018 03:34 PM]
01/05/2018	41 pg, 2.99 MB	DOCUMENT FILED - titled "Brief of Petitioner/Appellant, **Appeal for Plain Error Review and Writ of Error Coram Nobis**" filed by Mr. Don Hamrick. w/service 01/05/2018 [4617496] [18-1053] (AEV) [Entered: 01/05/2018 03:40 PM]
01/08/2018		CASE SUBMITTED Ad Panel Submission before Judges Roger L. Wollman, James B. Loken, Steven M. Colloton in St. Louis [4620745] [18-1053] (AMT) [Entered: 01/17/2018 03:56 PM]
01/15/2018	4 pg, 105.01 KB	MOTION for Court Order or Subpoena, filed by Appellant Mr. Don Hamrick w/service 01/17/2018. [4620320] [18-1053] (AEV) [Entered: 01/17/2018 08:32 AM]
01/17/2018	2 pg, 24.86 KB	**JUDGMENT FILED - This case is summarily affirmed** in accordance with Eighth Circuit Rule 47A.; Denying as moot [4620320-2] motion for court order or

		subpoena filed by Appellant Mr. Don Hamrick.. ROGER L. WOLLMAN, JAMES B. LOKEN and STEVEN M. COLLOTON Adp Jan 2018 [4620750] [18-1053] (AMT) [Entered: 01/17/2018 03:58 PM]
01/19/2018	☐	PUBLIC DOCKET NOTE: Rec'd copy of motion from appellant that was docketed on January 15, 2018. [18-1053] (MER) [Entered: 01/22/2018 01:47 PM]
01/25/2018	☐ 16 pg, 304.2 KB	**PETITION for rehearing by panel filed by Appellant Mr. Don Hamrick** w/service 01/25/2018 by USCA8 [4623283] [18-1053] (MER) [Entered: 01/25/2018 09:11 AM]
01/27/2018	☐ 7 pg, 409.78 KB	**Addendum to petition for rehearing by panel, filed by Mr. Don Hamrick** in 18-1053 , Doc No. [4623283-2] [4624843] [18-1053] (MER) [Entered: 01/30/2018 02:34 PM]
01/27/2018	☐ 5 pg, 353.4 KB	**Second Addendum to petition for rehearing by panel, filed by Mr. Don Hamrick** in 18-1053 , Doc No. [4623283-2]. [4624847] [18-1053] (MER) [Entered: 01/30/2018 02:37 PM]
02/01/2018	☐	PUBLIC DOCKET NOTE: Rec'd copy of Addendum to petition for rehearing from appellant that was docketed on 01/27/2018. [18-1053] (MER) [Entered: 02/01/2018 02:00 PM]
02/06/2018	☐ 50 pg, 6.05 MB	**Second - Second Addendum to petition for rehearing by panel, filed by Mr. Don Hamrick** in 18-1053 , Doc No. [4623283-2]. [4627748] [18-1053] (MER) [Entered: 02/07/2018 01:27 PM]
02/08/2018	☐ 19 pg, 1.51 MB	**Third Addendum to petition for rehearing by panel, filed by Mr. Don Hamrick** in 18-1053 , Doc No. [4623283-2]. [4628455] [18-1053] (MER) [Entered: 02/08/2018 04:06 PM]
02/12/2018	☐ 106 pg, 3.72 MB	**Fourth Addendum to petition for rehearing by panel, filed by Mr. Don Hamrick** in 18-1053 , Doc No. [4623283-2]. [4629486] [18-1053] (MER) [Entered: 02/13/2018 10:50 AM]

02/23/2018	35 pg, 930.88 KB	**Fifth Addendum to petition for rehearing by panel, filed by Mr. Don Hamrick** in 18-1053 , Doc No. [4623283-2]. [4634135] [18-1053] (MER) [Entered: 02/27/2018 02:26 PM]
02/25/2018	21 pg, 354.45 KB	**Sixth Addendum to petition for rehearing by panel, filed by Mr. Don Hamrick** in 18-1053 , Doc No. [4623283-2]. [4634143] [18-1053] (MER) [Entered: 02/27/2018 02:31 PM]
03/07/2018	54 pg, 701.76 KB	**Summary Addendum to petition for rehearing by panel, filed by Mr. Don Hamrick** in 18-1053, Doc No. [4623283-2]. [4636942] [18-1053] (MER) [Entered: 03/07/2018 01:59 PM]
03/15/2018	1 pg, 8.62 KB	**JUDGE ORDER: Denying** [4623283-2] **petition for rehearing by panel filed by Appellant Mr. Don Hamrick**. Adp Jan 2018 [4640003] [18-1053] (MER) [Entered: 03/15/2018 02:54 PM]
03/22/2018	1 pg, 8.71 KB	MANDATE ISSUED. [4642207] [18-1053] (MER) [Entered: 03/22/2018 10:10 AM]

APPENDIX 7 MY SECOND AMENDMENT CASE AT THE U.S. SUPREME COURT

(*FROM DC DISTRICT COURT & DC CIRCUIT*)

DENIED!

No. 03-145	**U.S. SUPREME COURT**
Title:	Don Hamrick, Petitioner v. George W. Bush, President of the United States, et al.
Docketed:	July 28, 2003
Lower Ct:	United States Court of Appeals for the District of Columbia Circuit
Case No.	**(02-5334)**
	Rule 11

~~Date~~~	~~~~~~~Proceedings and Orders~~~~~~~~~~~~~~~~~~~~
Dec 27 2002	Petition for writ of certiorari before judgment filed. (Response due August 27, 2003)
Aug 19 2003	Waiver of right of respondent George W. Bush, President of the United States, et al. to respond filed.
Aug 20 2003	DISTRIBUTED for Conference of September 29, 2003.
Oct 6 2003	Petition DENIED.

~~Name~~~~~~~~~~~~~~~~~~~~~	~~~~~~~Address~~~~~~~~~~~~~~
Attorneys For Petitioner: Don Hamrick Counsel of Record	5860 Wilburn Road Wilburn, AR 72179
Party Name: Don Hamrick	
Attorneys For Respondents: Theodore B. Olson Counsel of Record	Gibson, Dunn & Crutcher LLP 1050 Connecticut Avenue, NW Washington, DC 20036
Party Name: George W. Bush, President of the United States, et al.	

U.S. COURT OF APPEALS FOR THE DC CIRCUIT

Case Number Title	Opening Date	Party	Last Docket Entry	Originating Case Number Origin
02-5334 Hamrick, Don v. NO FILINGS 10/3/03, et al	10/28/2002	Don Hamrick	07/24/2012 15:22:57	0090-1 : **02cv01435** United States District Court for the District of Columbia
03-5021 Hamrick, Don v. Brusseau, J. P., et al	01/14/2003	Don Hamrick	07/25/2012 13:44:35	0090-1 : 02cv01434 United States District Court for the District of Columbia
04-5316 Hamrick, Don v. Bush, George, et al	09/09/2004	Don Hamrick	07/03/2012 16:24:21	0090-1 : 03cv02160 United States District Court for the District of Columbia
05-5414 In Re: Hamrick	11/01/2005	Don Hamrick	03/07/2006 16:55:00	0090-1 : 02cv01434 United States District Court for the District of Columbia
05-5429 Hamrick, Don v. Brewer, David, et al	11/09/2005	Don Hamrick	06/27/2012 14:39:38	0090-1 : 05cv01993 United States District Court for the District of Columbia
09-5102 Don Hamrick v. United States, et al	03/30/2009	Don Hamrick	10/03/2017 10:27:57	0090-1 : 1:08-cv-01698-EGS United States District Court for the District of Columbia

General Docket

United States Court of Appeals for District of Columbia Circuit

Court of Appeals Docket #: 02-5334

Docketed: 10/28/2002
Termed: 05/14/2003

Nature of Suit: 2440 Other Civil Rights

Hamrick, Don v. NO FILINGS 10/3/03, et al

Appeal From: United States District Court for the District of Columbia

Fee Status: Fee Paid

Case Type Information:

1) Civil US

2) United States

3)

Originating Court Information:

District: 0090-1 : 02cv01435 **Lead:** 02cv01435

Trial Judge: Ellen Segal Huvelle, U.S. Senior District Judge

Date Filed: 07/18/2002

Date Order/Judgment:	**Date NOA Filed:**
10/10/2002	10/23/2002

Prior Cases:

None

Current Cases:

None

Panel Assignment: Not available

Don Hamrick Appellant	Don Hamrick [COR LD NTC Pro Se] 5860 Wilburn Road Wilburn, AR 72179-0000

v.	
George W. Bush Appellee	
Frank A. Lobiondo, Rep., Chairman, Subcommittee on Coast Guard & Maritime Transportation Appellee	
Norman Y. Mineta, Secretary, Department of Transportation Appellee	
J. P. Brusseau, Capt., Director, Field Activities, Marine Safety, Sec, & Environmental Protection Appellee	

Don Hamrick,

Appellant

v.

George W. Bush; Frank A. Lobiondo, Rep., Chairman, Subcommittee on Coast Guard & Maritime Transportation; Norman Y. Mineta, Secretary, Department of Transportation; J. P. Brusseau, Capt., Director, Field Activities, Marine Safety, Sec, & Environmental Protection,

Appellees

10/28/2002 ☐	CIVIL-US CASE docketed. Notice of Appeal filed by Appellant Don Hamrick [710290-1]. [Entered: 10/28/2002 12:56 PM]
10/30/2002 ☐	CLERK'S ORDER TO SHOW CAUSE filed [710835]. Appellant to show cause by 11/29/02 why he should not be required to pay the full appellate filing and docketing fees before this appeal may proceed. Failure to respond will result in dismissal of the case for lack prosecution. The Clerk is directed to send a copy of this order to appellant both by

	certified mail, receipt return requested, and by first class mail. [Entry Date: 10/30/02] [Entered: 10/30/2002 10:24 AM]
10/30/2002	CERTIFIED MAIL [710844-1] SENT with return receipt requested (Receipt #: Z 020 608 467) of clerk order to show cause ifp motion or fee due [710835-1]. Certified mail receipt due 11/29/02 for Don Hamrick. [Entered: 10/30/2002 10:29 AM]
10/30/2002	FIRST CLASS MAIL SENT [710849-1] of clerk order to show cause ifp motion or fee due [710835-1]. [Entered: 10/30/2002 10:30 AM]
11/08/2002	INITIAL SUBMISSIONS filed by Appellant Don Hamrick [713928-1]: Docketing Statement; Statement of Issues. [Entered: 11/15/2002 11:16 AM]
11/08/2002	REQUEST filed by Appellant Don Hamrick for exemption from electronic access fees [713931-1]. [UNSERVED] [Entered: 11/15/2002 11:22 AM]
11/08/2002	MOTION filed (5 copies) by Appellant Don Hamrick (unserved) to invite amicus curiae briefs [713934-1]. [Entered: 11/15/2002 11:25 AM]
11/08/2002	MOTION filed (5 copies) by Appellant Don Hamrick (unserved) for rulings on motions ruled moot from lower court [713947-1]. [Entered: 11/15/2002 11:40 AM]
11/08/2002	MOTION filed (5 copies) by Appellant Don Hamrick (unserved) to allow leave to proceed in forma pauperis [713951-1]. [Entered: 11/15/2002 11:47 AM]
11/08/2002	BRIEF filed by Appellant Don Hamrick [713960-1]. Copies: 15. [UNSERVED]. [Entered: 11/15/2002 12:05 PM]
11/08/2002	ADDENDUM to [713961-1] appellant's brief [713960-1] filed by Appellant Don Hamrick. [Entered: 11/15/2002 12:07 PM]
11/08/2002	CERTIFIED MAIL RECEIPT [715263-1] RECEIVED by Patsy A. Hays for Appellant Don Hamrick (signed for on 11/4/02) in response to the clerk's order to show cause ifp motion or fee due filed on October 30, 2002 [710835-1]. [Entered: 11/21/2002 08:11 AM]

11/29/2002	☐	MOTION filed (5 copies) by Appellant Don Hamrick (certificate of service dated/unserved) to substitute new party Tom Ridge for current party Norman Mineta [717875-1]. [Entered: 12/04/2002 12:40 PM]
11/29/2002	☐	MOTION filed (5 copies) by Appellant Don Hamrick (certificate of service dated/unserved) for publication [717876-1]. [Entered: 12/04/2002 12:45 PM]
12/09/2002	☐	MOTION filed (5 copies) by Pro Se Appellant Don Hamrick (certificate of service dated 12/9/02) for judicial notice of adjudicative facts ... [718393-1]. [Entered: 12/09/2002 12:33 PM]
12/09/2002	☐	MOTION filed (5 copies) by Pro Se Appellant Don Hamrick (UNSERVED) to include additional appendix to appellant's brief in light of presidential action signing into law the Department of Homeland Security Reorganization Act of 2002. [719050-1]. [Entered: 12/11/2002 12:15 PM]
12/11/2002	☐	MOTION filed (5 copies) by Pro Se Appellant Don Hamrick (certificate of mail service dated 12/10/02) for subpoena to comple President George W. Bush, Thomas Ridge, Norman Mineta, and Adm. Collins to Comply with the Discovery Process, Answer Depositions upon written questions, answer Interrogatories, Reply to Stipulations of Fact and Requests for Admissions [719254-1]. [Entered: 12/12/2002 07:44 AM]
12/20/2002	☐	MOTION filed (5 copies) by Appellant Don Hamrick (certificate of mail service dated 12/19/02) styled "Motion for Judicial Notice of a General Presumption of Habit and/or Routine Practice that Rule of Law has Been Replaced with the Rule of Men Expressing Opinions that the US Constitution has been Overtaken by Events, by Time and is no longer Relevant to a Modern Society" [721592-1]. [Entered: 12/23/2002 03:25 PM]
12/20/2002	☐	MOTION filed (5 copies) by Appellant Don Hamrick (certificate of mail service dated 12/19/02) styled "Motion for Leave to File Petition for Writ of Certiorari with the Supreme Court of the United States [721602-1]. [Entered: 12/23/2002 03:36 PM]

12/23/2002	☐	MOTION filed (5 copies) by Appellant Don Hamrick (certificate of mail service dated 12/19/02) for judicial notice of adjudicative facts [727010-1]. [Entered: 01/21/2003 04:40 PM]
12/27/2002	☐	SUPPLEMENT to [722339-1] the motion for Judicial Notice [721592-1] (Styled as "Motion For Judicial Notice Of Adjudicative Facts Comparing the Commercial Drivers License With The Merchant Mariner's Document") filed by the Pro Se Appellant Don Hamrick. [Entered: 12/27/2002 11:21 AM]
02/03/2003	☐ 2 pg, 8.46 KB	PER CURIAM ORDER filed [729570] discharging clerk order to discharging clerk order to show cause [710835-1]. Denying motion to proceed ifp pursuant to 28 U.S.C. 1916 [713951-1] filed by Don Hamrick. Directing appellant to either file a motion to proceed on appeal in forma pauperis or payment of the $105 docketing fee the the Clerk of the District Court. IFP motion or fee payment due 3/5/03. Failure to respond shall result in dismissal of the case for lack of prosecution. Deferring consideration of remaining motions [727010-1] [721592-1] [721602-1] [719254-1] [718393-1] [719050-1] [717875-1] [717876-1] [713934-1] pending further order of the Court. Directing Clerk to send appellant a copy of this order [729570-1] by certified mail, return receipt requested, and by first class mail. Before Judges Randolph, Tatel, Garland. [Entry Date: 2/3/03] [Entered: 02/03/2003 11:06 AM]
02/03/2003	☐	FIRST CLASS MAIL SENT [729577-1] of Per Curiam order ifp motion or fee due [729570-1]. [Entered: 02/03/2003 11:10 AM]
02/03/2003	☐	CERTIFIED MAIL [729578-1] SENT with return receipt requested (Receipt #: 70020860000025625449) of Per Curiam order ifp motion or fee due [729570-1] Certified mail receipt due 3/5/03 for Don Hamrick. [Entered: 02/03/2003 11:11 AM]
02/11/2003	☐	CERTIFIED MAIL RECEIPT [731591-1] RECEIVED by James Hays for Pro Se Appellant Don Hamrick (signed for on 2/7/03) in response to a Per Curiam IFP motion/fee due

	order filed on February 3, 2003 [729570-1]. [Entered: 02/12/2003 09:49 AM]
02/25/2003 ☐	MOTION filed (5 copies) by Appellant Don Hamrick (certificate of mail service dated 2/25/03) for judicial notice [734316-1]. [Entered: 02/26/2003 12:01 PM]
02/26/2003 ☐	NOTICE from Clerk, District Court (payment of the $105.00 appellate docketing fee on 2/24/03) [734232-1]. [Entered: 02/26/2003 10:19 AM]
03/05/2003 ☐	MOTION filed (5 copies) by Appellant Don Hamrick (UNSERVED) to amend the record on appeal..... [736423-1]. [Entered: 03/06/2003 06:11 PM]
03/12/2003 ☐	MOTION filed (5 copies) by Appellant Don Hamrick (certificate of mail service dated 3/10/03) to submit as evidence [737900-1]. [Entered: 03/13/2003 02:59 PM]
03/14/2003 ☐	MOTION filed (5 copies) by Appellant Don Hamrick (unserved) to submit as evidence [738533-1]. [Entered: 03/18/2003 12:32 PM]
03/18/2003 ☐	Letter sent acknowledging receipt of [738545-1] motion to submit as evidence [738533-1]. Documents sent: letter. [Entered: 03/18/2003 12:53 PM]
03/18/2003 ☐	MOTION filed (5 copies) by Pro Se Appellant Don Hamrick (certificate of mail service dated 3/17/03) for appointment of counsel [739208-1]. (Styled as "Rule 16(b) of FRCP"). [Entered: 03/20/2003 05:39 PM]
04/30/2003 ☐	PER CURIAM ORDER filed [746607] denying motion appointment of counsel [739208-1] filed by Don Hamrick. Denying motions for judicial notice [734316-1] [727010-1] [721592-1] [718393-1] filed by Don Hamrick. This court may only take judicial notice of facts, not legal arguments. Denying motions to amend the record, to submit evidence, and for the issuance of subpoenas [738533-1] [737900-1] [736423-1] [719254-1] filed by Don Hamrick. Denying motion for leave to file an appendix [719050-1] filed by Don Hamrick. Appellant's lodged "appendix" primarily contains legal argument, which is properly included in a brief, not an appendix. Because appellant has not sought leave to exceed

		the word limits on his brief, this motion will be denied. Denying motion to substitute a party [717875-1] filed by Don Hamrick. Denying motion for leave to file a petition for a writ of certiorari [721602-1] filed by Don Hamrick. Appellant does not need permission from this court to file a petition for a writ of certiorari with the Supreme Court. Denying motions to invite amicus curiae briefs, for rulings on motions dismissed as moot by the district court, and for publication [717876-1] [713934-1] [713947-1] filed by Don Hamrick. Directing that the court will dispose of case without oral argument on the basis of the record and presentations in the brief pursuant to Circuit Rule 34(j) [746607-1]. Before Judges Edwards, Sentelle, Garland. [Entry Date: 4/30/03] [Entered: 04/30/2003 12:05 PM]
05/14/2003	☐ 1 pg, 7.49 KB	JUDGMENT w/o memo filed [749193] that the district court's judgment dated October 10, 2002, denying appellant's petition for writ of mandamus, be affirmed. (SEE JUDGMENT FOR DETAILS) The Clerk is directed to withhold issuance of the mandate [749193-2] pending disposition of any timely petition for rehearing. Before Judges Edwards, Sentelle, Garland . Date: 5/14/03] [Entered: 05/14/2003 10:16 AM]
07/11/2003	☐	MANDATE ISSUED to Clerk, District Court [759739-1] [Entered: 07/11/2003 02:21 PM]
07/31/2003	☐	NOTICE filed by Clerk, Supreme Court advising of the filing on 12/27/02, & docketing on 7/28/03 of a petition for writ of certiorari [763978-1]. Supreme Court Docket No. 03-145. [Entered: 08/01/2003 11:46 AM]
08/04/2003	☐	MOTION filed (5 copies) by Pro Se Appellant Don Hamrick (certificate of mail service date 7/31/03) to stay issuance of the mandate [764732-1]. [FILED AS A COMBINED PLEADING ALONG WITH APPELLANT'S PETITION FOR PANEL REHEARING]. [Entered: 08/06/2003 11:56 AM]
08/04/2003	☐	PETITION filed (Copies: 4) by Pro Se Appellant Don Hamrick (certificate of mail service dated 7/31/03) for panel rehearing [764735-1]. [FILED AS A COMBINED PLEADING ALONG WITH APPELLANT'S MOTION TO

Date		Entry
		STAY ISSUANCE OF THE MANDATE]. [Entered: 08/06/2003 12:01 PM]
08/13/2003	☐	MOTION filed (5 copies) by Pro Se Appellant Don Hamrick (UNSERVED) for Judicial Notice [766677-1] (Styled as "Under The Federal Rule Of Evidence Motion For Judicial Notice Of Adjudicative Facts Under Rule 201, Appellant Files A Memorandum Opinion And Order Of The Federal Communications Commission (FCC) As As Relevant Evidence Of A Public Record Under Rules 401, 402, & 1005 To Appellant's Case That Federal Preemption Over County and State Regulations Concerning Radio Frequency Interference Achieves Parity With The Bureau Of Alcohol Tabacco, Firearms & Explosives Having Preemptive Jurisdiction Of County & State Firearms Laws"). [Entered: 08/15/2003 10:02 AM]
10/03/2003	☐	PER CURIAM ORDER filed [775877] denying petition rehearing [764735-1] filed by Don Hamrick. It is FURTHER ORDERED that the motion to stay the mandate [764732-1] be dismissed as moot; the mandate issue in this case on July 11, 2003. It is FURTHER ORDERED that the motion for judicial notice [766677-1] be denied. Clerk is directed to accept no further submissions from appellant in this case [775877-1] . Before Judges Edwards, Sentelle, Garland . [Entry Date: 10/3/03] [Entered: 10/03/2003 01:05 PM]
10/10/2003	☐	PETITION filed (Copies: 20) by Appellant Don Hamrick (certificate of mail service dated 10/9/03) for rehearing en banc [778248-1]. [Entered: 10/14/2003 06:23 PM]
10/14/2003	☐	NOTICE filed by Clerk, Supreme Court advising of the entry of an order on 10/6/03, denying the petition for writ of certiorari [778462-1]. Supreme Court Docket No. 03-145. [Entered: 10/15/2003 01:06 PM]
11/03/2003	☐	MOTION filed (5 copies) by Pro Se Appellant Don Hamrick (certificate of mail service date 10/31/03) to extend time to file [783195-1] a petition for rehearing en banc (Styled "Motion For Extension of time of 6 Months...") [749193-2]. [Entered: 11/06/2003 08:51 AM]
11/06/2003	☐ 1 pg, 6.65 KB	CLERK'S ORDER filed [783197-1] dismissing as moot appellant's motion for leave to file petition for rehearing en

	banc [783195-1]. On October 10, 2003, the Clerk filed appellant's petition for rehearing en banc. [Entry Date: 11/6/03] [Entered: 11/06/2003 08:53 AM]
11/17/2003	MOTION filed (5 copies) by Pro Se Appellant Don Hamrick (UNSERVED) for reimbursement of $210.00 in Filing Fees as erroneously collected from appellant in violation of Federal Law [786536-1]. [Entered: 11/21/2003 11:55 AM]
11/19/2003	NOTICE filed by Pro Se Appellant Don Hamrick submitting to this court a copy of a pleading submitted to U.S. District Court for the District of Columbia (Styled "Plaintiff's Motion For Review and Approval of His Preliminary Settlement Officer To The Defendants In Accordance with Rules 16(a)(1) and 16(c)(9) of The Federal Rules of Civil Procedure [786542-1]. (Certificate of mail service dated 11/17/03). [NO ACTION TO BE TAKEN ON THIS NOTICE]. [Entered: 11/21/2003 12:08 PM]
11/19/2003	NOTICE filed by Pro Se Appellant Don Hamrick submitting to this court a copy of a pleading submitted to U.S. District Court for the District of Columbia (Styled "Plaintiff's Motion For Judicial Notice of Adjudicative Facts and Plaintiff's Presumptions In General") [786545-1]. Certificate of mail service dated 11/15/03. [NO ACTION TO BE TAKEN ON THIS NOTICE]. [Entered: 11/21/2003 12:22 PM]
11/21/2003	Letter sent acknowledging receipt of [786550-1] motion for reimbursement of filing fees [786536-1]. Documents sent: copy of the motion [786536-1], and the original receipt. [Entered: 11/21/2003 12:35 PM]
11/24/2003	NOTICE filed by Appellant Don Hamrick transmitting courtesy copy of motion for judicial notice filed in the district court [787678-1]. Certificate of mail service date 11/22/03. [Entered: 11/26/2003 07:06 PM]
02/03/2004	PER CURIAM ORDER, In Banc, filed [800878] denying motion for reimursement of filing fees [786536-1] filed by Don Hamrick. It is FURTHER ORDERED that the petition for rehearing en banc be denied. Clerk is directed to accept no further submissions from appellant in this case [800878-1]. Before Judges Ginsburg, Edwards, Sentelle, Henderson, Randolph, Rogers, Tatel, Roberts. (Circuit Judge Garland

	did not participate in this matter) [Entry Date: 2/3/04] [Entered: 02/03/2004 03:57 PM]
11/29/2006	MERITS BRIEFS RETIRED [1385389] - The following NARA information may be used to locate the archived merits briefs at the Federal Records Center - Accession Number: 276-07-0002; Location Number: 5/39-17-4.6; Box Number: 38. [02-5219, 02-5227, 04-5150, 02-5228, 02-5240, 02-5246, 02-5383, 02-5255, 02-5262, 02-5334, 02-5342, 02-5352] [Entered: 07/24/2012 03:22 PM]
08/27/2007	CLERK'S FILE RETIRED [1318382] - The following NARA information may be used to locate the archived clerks file at the Federal Records Center - Accession Number: 276-07-0011; Location Number: 09/46-27-4.6; Box Number: 20. [02-5313, 02-5314, 02-5315, 02-5316, 02-5317, 02-5318, 02-5319, 02-5320, 02-5321, 02-5322, 02-5323, 02-5324, 02-5325, 02-5326, 02-5327, 02-5328, 02-5329, 02-5330, 02-5332, 02-5333, 02-5334, 02-5335] [Entered: 07/13/2011 03:17 PM]

U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:02-cv-01435-ESH

HAMRICK v. BUSH et al Assigned to: Judge Ellen S. Huvelle Cause: 42:1983 Civil Rights Act	Date Filed: 07/18/2002 Date Terminated: 10/10/2002 Jury Demand: None Nature of Suit: 440 Civil Rights: Other Jurisdiction: U.S. Government Defendant

Petitioner		
DON HAMRICK *U.S. Merchant Seaman*	represented by	**DON HAMRICK** 5860 Wilburn Road Wilburn, AR 72179 PRO SE
V.		
Respondent		
GEORGE WALKER BUSH		
Respondent		
FRANK A. LOBIONDO *Rep., Chairman, Subcommittee on Coast Guard & Maritime Transportation*		
Respondent		
NORMAN MINETA *Secretary, Department of Transportation*		
Respondent		
J. P. BRUSSEAU *Capt., Director, Field Activities, Marine Safety, Sec, & Environmental Protection*		

Date Filed	#	Docket Text
07/18/2002	(1)	PETITION for Writ of Mandamus *, a Writ of Prohibition, Declaratory Judgment, and Injunctive Relief* (Filing fee $0). Filed by pro se DON HAMRICK. (nmr,) (Entered: 07/19/2002)
07/18/2002		SUMMONS Not Issued as to J. P. BRUSSEAU ; GEORGE W. BUSH ; FRANK A. LOBIONDO ; NORMAN MINETA (nmr,) (Entered: 07/19/2002)
07/18/2002	(2)	NOTICE *regarding Exemption from Payment of Filing Fees and Court Costs* by pro se DON HAMRICK (Attachments: #1 Exhibit 1)(nmr,) (Entered: 07/23/2002)
07/18/2002	(3)	NOTICE OF RELATED CASE by pro se DON HAMRICK. Case related to Case No. 02cv1434 (ESH). (nmr,) (Entered: 07/23/2002)
07/18/2002	(4)	MOTION to Appoint Counsel *Pro Bono* by pro se DON HAMRICK. (Attachments: #1 #2)(nmr,) (Entered: 07/23/2002)
07/19/2002	(5)	MOTION for Order to Show Cause by pro se DON HAMRICK. (nmr,) (Entered: 07/22/2002)
07/30/2002	(6)	MOTION to Submit *for scheduling/planning purposes and limiting subjects for consideration at pretrial conferences* by pro se DON HAMRICK. (nmr,) (Entered: 08/08/2002)
08/06/2002	(7)	MOTION for Judicial Review *of certain transferred duties and powers of the Department of Transportation, the U.S. Coast Guard, and the U.S. Congress with Writ of Mandamus* by pro se DON HAMRICK. (nmr,) (Entered: 08/08/2002)
08/08/2002	(8)	ERRATA *of the missing referenced documents under "Disputed Documents" of his writ of mandamus; (Fiat) "Let thie be filed as attachment to his writ," by Judge Huvelle;* by pro se DON HAMRICK. (nmr,) (Entered: 08/14/2002)
09/23/2002	(9)	MOTION to Expedite *Case as Factual Context has Constitutional Merit* by pro se DON HAMRICK. (nmr,) (Entered: 09/24/2002)

09/26/2002	(10)	MOTION for Permanent Injunction *and*, MOTION for Preliminary Injunction by pro se DON HAMRICK. (nmr,) (Entered: 09/30/2002)
10/07/2002	(13)	NOTICE *of Filing Pretrial Disclosure of Judicial Insurrections, in accordance with Rule 26(a)(3)(C); (Fiat) "Leave to file is granted" by Judge Huvelle;* by pro se DON HAMRICK (nmr,) (Entered: 10/15/2002)
10/10/2002	(11)	MEMORANDUM AND OPINION. Signed by Judge Ellen Segal Huvelle on 10/10/02. (BL,) (Entered: 10/10/2002)
10/10/2002	(12)	ORDER, that the Petition for Writ of Mandamus be denied w/o prejudice and that all other pending motions be dismissed as moot.(BL,) . (Entered: 10/10/2002)
10/22/2002	(14)	MOTION to Amend Judgment re (12) *entered 10/10/02; (Fiat) "Let this be filed" by Judge Huvelle;* by pro se DON HAMRICK. (nmr,) (Entered: 10/23/2002)
10/23/2002	(16)	NOTICE OF APPEAL re (12) Order denying Petition for Writ of Mandamus dated 10/10/02 by pro se DON HAMRICK. No filing fees paid. (nmr,) (Entered: 10/24/2002)
10/24/2002	(15)	ORDER denying Motion to amend judgment (14). Signed by Judge Ellen Segal Huvelle on 10/22/02. (BL,) (Entered: 10/24/2002)
10/24/2002		Transmission of Preliminary Record on Appeal to US Court of Appeals re appeal (16) (nmr,) (Entered: 10/24/2002)
10/29/2002		USCA Case Number re appeal (16). USCA Case #02-5334 (nmr,) (Entered: 10/30/2002)
02/24/2003		USCA Appeal Fees received $ 105, receipt number 110230 re (16) Notice of Appeal filed by DON HAMRICK (nmr,) (Entered: 02/25/2003)
02/25/2003		Supplemental Record on Appeal transmitted to US Court of Appeals re (16) Notice of Appeal, USCA No.: 02-5334. (nmr,) (Entered: 02/25/2003)

07/14/2003	(17)	MANDATE of USCA affirming the decision of the USDC denying the petition for a writ of mandamus as to (16) Notice of Appeal filed by DON HAMRICK (USCA # 02-5334) (cp,) . (Entered: 07/18/2003)