No. 23A-_____

In The Supreme Court of the United States

_____

IN RE: LEE KENT HEMPFLING ET. UX.

LEE KENT HEMPFLING, Pro Se,
SUESIE KENT HEMPFLING, Pro Se:
APPLICANTS,
V.
UNITED STATES DEPARTMENT OF JUSTICE
RESPONDENT

_____

ON PETITION OF ORIGINAL EMERGENCY JURISDICTION FOR A WRIT OF PROCEDENDO AND WRIT OF MANDAMUS UNDER THE ALL WRITS ACT, TO THE FOURTH CIRCUIT COURT OF APPEALS, THE NINTH CIRCUIT COURT OF APPEALS AND THE ARIZONA SUPERIOR COURT OF PINAL COUNTY, ARIZONA.

_____

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Questions Presented

1: Whether the listed state and federal court actions are parallel to any legally invoked criminal investigation of prosecution stemming from crimes reported inside and around the listed cases and whether those listed cases should be released from any hold placed on them for abandonment: a failure to prosecute.

2: Whether civil courts reporting crimes taking place against them, and the courts that maintain jurisdiction over them should be ordered to publicly complete the process of the within cases, given no common facts, no common parties and no common relationship to the crimes committed against the respective courts: plus the reasons set forth herein.

3: What constitutes censorship on the Internet?

4: What is protected speech regarding the Judicial Branch? If what a court says is not protected speech nothing can be protected speech. A court ordering freedom of speech could be silenced if the court's product is not protected speech.

in Re: Lee Kent Hempfling et. ux.
On a Petition of Original Emergency Jurisdiction for a Writ of Procedendo and a Writ of Mandamus under the All Writs Act, to the Fourth Circuit Court of Appeals, the Ninth Circuit Court of Appeals and the Arizona Superior Court of Pinal County, Arizona. Pinal County, Arizona.

Parties to the Proceeding

The caption contains the names of all parties.

Corporate Disclosure Statement

No party is a corporation, so none has a parent corporation or stock.

Related Proceedings Below

U.S. Court of Appeals for the Fourth Circuit[1]

Docket #: 05-1987 Hempfling v. LM Communications Inc Termed: 03/27/2006[2] Docket numbers 37, 38, 39, 40, 41 hidden from view. Counter Claim never adjudicated after 100% true assertion to the only facts presented in the case by Plaintiff in open court[3].

U.S. District Court District of South Carolina[4]

(Charleston) CASE #: 2:04-cv-01373-PMD Hempfling v.

[1] Exhibit C page 7
[2] Exhibit V page 96
[3] "The recommendations of the Magistrate Judge amounted to a reversal of case facts. The counter claim raised serious allegations of national defense law violations by DOJ, FBI, SC AG, NAACP, SC NAACP, but was never looked into, at least not publicly (see Page 94 "U" attachment for the press release submitted as that evidence. Directly from the PR source used.)."
[4] Exhibit B page 5

LM Communications, et al : Judge Patrick Michael Duffy USCA OPINION #66 No permission to view document[5]. Date Terminated: 08/31/2005. As of August 13, 2021 still showing Case in other court: Fourth Circuit, 5-1987

U.S. Court of Appeals for the Ninth Circuit[6]

Docket #: 17-16329 Termed: 12/26/2017 Lee Hempfling, et al v. Kent Volkmer, et al[7]. The memorandum (Docket #22) affirming the district court is referring to the 04/11/2017 Magistrate's decision which was overturned by the three judge panel in rehearing the case: a requirement in the Ninth Circuit for Constitutional questions. 04/19/2018 Filed order Appellants' petition for panel rehearing (Docket Entry No. [23]) is denied. Appellants' motion to stay the mandate (Docket Entry No. [23]) is denied as unnecessary. No further filings will be entertained in this closed case) has NOT been published yet this case

[5] Exhibit B page 5 online viewing option
[6] Exhibit S page 89
[7] Exhibit R page 83

mandated MANDATE ISSUED. (JCW, BGS and JSB) [10854002] (RR) [Entered: 04/27/2018 02:01 PM].

U.S. District Court for the District of Arizona, Phoenix[8]

CIVIL DOCKET FOR CASE #: 2:16-cv-03213-ESW Hempfling et al v. Voyles et al Magistrate Judge Eileen S Willett[9] [10]: This case was appealed 06/27/2017 As of August 13, 2021 still showing as Case in other court: Ninth Circuit, 17-16329. Docket #30 is blank and missing where the opinion should be. The mandate is docket # 31 04/30/2018[11].

Arizona Superior Court Pinal County[12]

Case Number: S-1100-CV-201102200: HEMPFLING vs CVDC HOLDINGS et.al.[13] Dental Malpractice, Fraud

[8] Exhibit A page 2, Exhibit T

[9] Exhibit page 74,75,76 Defense relied on the Rooker-Feldman Doctrine which is nowhere near applicable. "The Rooker-Feldman Doctrine requires knowing what it is and what it means. For that we turn to KEITH LANCE, et al., APPELLANTS v. GIGI DENNIS, COLORADO SECRETARY OF STATE. The same lawyer and the same Doctrine were presented in Hempfling v Stanford.

[10] Exhibit page 101 Attachment X "The Court finds that Plaintiffs' Complaint is, in effect, an appeal from the Pinal County Superior Court's March 2014 order "closing" the case and vacating 'all future hearings.'". THAT order was a placeholder. See page 79 "**The ORDER that shows up on the 25th would be the draft of the order filed on the 27th." See Exhibit "Y".**

[11] Exhibit CC

[12] Exhibit E page 11

[13] Exhibit X page 101

And Embezzlement: Filing Date: 6/6/2011 ; Disposition Date: Left blank. 3/25/2014 ORDER: COURT ORDER / RULING has been declared to be a placeholder by the elected Clerk of Court[14]: entered statement as evidence in District Court seeking to force release of this case. This case technically ended in default through bribery of court clerks[15].

[14] Exhibit Q page 80, 81, 82

[15] Exhibit Page 82 “Once the final order is completed and signed the draft will be deleted and replaced with the actual order.” According to a document from all the way back to 1998 The Department of Justice "agrees that a 'shortcoming' of the Ninth Circuit today is 'its failure effectively to address erroneous panel decisions in important cases.'" Comments of the United States Department of Justice on the Tentative Draft Report of the Commission on Structural Alternatives for the Federal Courts of Appeals (Nov. 6, 1998), available at http://app.comm.uscourts.gov/report/comments/DOJ.htm.

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Introduction

Chief Justice John Marshal[16] ruled in Marbury v Madison 5 U.S. 137 (1803), that Marbury had been properly appointed in accordance with procedures established by law, and that he therefore had a right to the writ. In the instant case, petitioners have a right to the rulings withheld. Petitioners also have a right to appeal if necessary, but not this action.

Secondly, Marshall stated that because Marbury had a legal right to his commission, the law must afford him a remedy. There is no remedy in law for the condition placed upon the cases listed in this petition.

The Chief Justice went on to say that it was the particular responsibility of the courts to protect the rights of individuals -- even against the president of the United States. The United States through its department of Justice is a party to this petition.

He continued; To enable this court then to issue a

[16] Marbury v. Madison 5 U.S. 137 (1803),

mandamus, it must be shown to be an exercise of appellate jurisdiction, **or to be necessary to enable them to exercise appellate jurisdiction**. The Department of Justice has been improperly and illegally maintaining jurisdiction over issues it no longer has legal authority to hold. This petition seeks release and execution of those cases in custody.

This petition is not an appeal. It is not a request to review anything in the cases the instant case addresses. No appealable orders have issued. This petition is the only means available to reap the protected rights of individuals. The entire point of this petition is to enable the courts to exercise appellate jurisdiction they do not now enjoy, and in doing so; issue a Writ of Prosedendo to the lower courts that they regain jurisdiction of their cases and proceed to execute them. And a Writ of Mandamus to compel the Department of Justice to release the cases from any and all holds. This court is NOT being asked to exercise its appellate jurisdiction. It is being asked to return appellate jurisdiction to the courts

below and stop this fiasco of stolen justice from happening to others in the future. It is also asked to provide restitution for the withheld cases.

"…**or to be necessary to enable them to exercise appellate jurisdiction…**"

THAT is exactly what this petition is. Return Appellant Jurisdiction. To understand the need for this petition one must understand the cases below. All are finished and closed. None have issued final rulings that can be appealed.

The Fourth Circuit case from the Charleston District Court involved employment discrimination: being fired for trying to hire a black female full time.[17] [18] [19] [20] [21]. The counterclaim was never addressed by the court.

[17] "I need to be able to think and right now ... I can't think about anything else ... I know what these people did to Lee ... my God Billy, what's going to happen to me next? So, if I all of a sudden end up injured or dead ... this is becoming scary..." (Exhibit "GG" 7th paragraph. Exhibit "HH" Page 124. 8/20/2003)

[18] "We did what we did with Lee for a variety of different reasons, and you know what, Lee was a really good guy and a really bright guy but, there were other issues… so now its just a function of exploring what the possibilities are." (Exhibit "FF" 7th paragraph.) Thompson recorded the meeting. It is full evidence in the SC court.

[19] "In fact a white manager tried to get them to hire me to a full time job and they refused and forced him out." (Exhibit "II")

[20] Exhibit "HH" Page 124. 8/20/2003

[21] Direct Action control. (See Exhibit "JJ" page 126)

A rule 62 violation took place in the order issued March 25th, 2014 in Arizona Superior Court in Pinal County, in that it based its authority on the Mandate of the special action[22] [23].

No final order, or a ruling on the default motion has ever issued[24] [25].

Pursuant to 28 U.S. Code § 1651 (a)[26], 42 U.S. Code § 1988 (a) - Proceedings in vindication of civil rights; and Supreme Court Rule 20 Procedure on a Petition for an Extraordinary Writ, Supreme Court Rule 33.2, Supreme Court Rule 39, and the Private Attorney General Doctrine: Applicants respectfully request an Emergency Writ of Procedendo, under Original Jurisdiction under the All Writs Act related to holds placed on civil cases in violation of

[22] That had nothing to do with the case itself. It could not have been closed by the special action mandate. Exhibit "BB" page 110. A motion for default is still pending in that court. There not having been a final order or a case mandate presented by the court; has nothing to do with the Rooker-Feldman defense offered in District Courts.

[23] April 02, 2014 Chad Roche Clerk of Court Pinal County. Exhibit page 82: "The ORDER that shows up on the 25th would be the draft of the order filed on the 27th... Once the final order is completed and signed the draft will be deleted and replaced with the actual order."

[24] These facts make the Rooker-Feldman defense in two district court cases to be fictional at best and purposely misleading and false on its face.

[25] Jeffrey P. Handler assistant clerk of the 2nd division Arizona Court of Appeals. See Exhibit "Y" page 106. "I assume that since only the special action was decided the "final order" in the case must await further proceedings in the trial court…" (No one has ever seen the special action decision either.)

[26] See Exhibit "EE" 28 U.S.C. §1651(a) Checklist page 116 Exhibits.

Applicants' First, Fourth, Fifth and Fourteenth Amendment rights among others.

Applicants thus also respectfully request that the Court grant the requested relief of a Writ of Mandamus, to compel the Department of Justice and a Writ of Procedendo to the respective courts, to stop withholding publication of the cases listed herein, and to issue a Writ of Procedendo to the Pinal County Court of the State of Arizona (Arizona Appeals and Supreme Court have declined anything to review) and the Federal Fourth and Ninth Circuits and the Charleston and Phoenix District Courts to stop withholding the listed cases from completion.[27].

The integrity and independence of the Federal Judiciary is paramount to the exercise of Justice.

> "In Federalist No. 78[28], Alexander Hamilton called the judiciary "the least dangerous" and weakest branch, because it held neither the purse strings of the Legislature nor the force of the Executive; the judiciary wielded "merely judgment," he wrote.

[27] Because the Applicants are pro se, the Court has a higher standard when faced with a motion to dismiss White v. Bloom, 621 F.2d 276. A court faced with a motion to dismiss a pro se complaint alleging violations of civil rights must read the complaint's allegations expansively, Haines v. Kerner, 404 U.S. 519, 520-21, 92 S.Ct. 594, 596, 30 L.Ed.2d 652 (1972).

28 https://founders.archives.gov/documents/Hamilton/01-04-02-0241

So it had to be protected from outside influence by providing safeguards to its independence. Importantly, Hamilton also said in Federalist No. 78 – presaging Chief Justice John Marshall in Marbury v. Madison[29] – that it was the duty of the courts

> "to declare all acts contrary to the manifest tenor of the Constitution void."
>
> 'The judiciary would protect the guarantees set out in the Constitution by having the power to say "no" to the Legislature and "no" to the Executive when they overstepped the limits of their constitutional powers.' (November 18, 2019 Threats to Judicial Independence and the Rule of Law By Judge Paul L. Friedman; Senior Judge District of Columbia Circuit [30])

Applicants have suffered multiple years of irreparable harm from the obstruction of justice against them in each of the cases listed[31]: the United States Judiciary has suffered direct criminal consequences. Where the Judiciary is unable in this matter to assert its right of independence from clandestine control by any agency of the Executive

29 https://www.law.cornell.edu/constitution-conan/article-3/section-2/clause-1/marbury-v-madison
30 November 18, 2019 Threats to Judicial Independence and the Rule of Law By Judge Paul L. Friedman; Senior Judge District of Columbia Circuit https://www.americanbar.org/groups/litigation/initiatives/committee-on-american-judicial-system/in-the-news/threats-to-judicial-independence-and-rule-of-law/

31 Exhibit Q page 74 --

branch, Applicants must, as representative of the public interest[32], raise the total miscarriage of justice against the Judicial Branch[33].

> "[i]t is a due process violation if the government makes affirmative misrepresentations as to the nature or existence of parallel proceedings or otherwise use trickery or deceit." 18 U.S. Code § 1509. Obstruction of court orders[34]

There is no absolute constitutional right to a stay of a civil proceeding pending disposition of a related criminal matter[35].

Decisions Below

The 'decisions below' are not in line with this request. There are no final decisions. The cases and

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[32] Sierra Club v. Morton, 405 U.S. 727, 734 ; Pp. 405 U. S. 731-741. , (1972),

33 Such condition requires another with direct interest to assert the rights of the Judiciary on behalf of the Judiciary as well as self. The term private attorney general was coined by Judge Jerome Frank in the context of a challenge to a private person's standing to bring a lawsuit to vindicate the public interest. (County of Inyo v. City of Los Angeles (1978) 78 Cal.App.3d 82, 88, fn. 1, citing Associated Industries v. Ickes (2d Cir. 1943) 134 F.2d 694, 704.) (Associate Industries v. Ickes (2d Cir. 1943) 134 F.2d 694, 704; Comment (1974) 122 U.Pa.L.Rev. 636, 658.) "See DEE PRIGDEN, CONSUMER PROTECTION AND THE LAW § 5:9 (2002)., § 6:9, at 6-21 to 6-22 (stating that "thirty-three states explicitly authorize" individual plaintiffs "to act as . . . private attorney[s] general" and to seek "not only damages for [their] own injuries, but also to enjoin any future violations of the state consumer protection act by the same defendant")" 42 U.S. Code § 1988 - Proceedings in vindication of civil rights

[34] United States v. Robson 477 F.2d 13, 18 (1973

[35] Arthurs v. Stern, 560 F.2d 477 (1st Cir. 1977) cert. denied, 434 U.S. 1030 (1978); see also In re: Melissa M., 127 N.H. 710, 712 (1986) (citing federal cases).

their conditions are evidential in nature. The very focus of this petition is to allow court decisions below to publicly exist.

Jurisdiction

Applicants have suffered injuries of fact. Cases listed have been poised to completion, most even having mandated without public issuance of opinions or valid orders with empty docket numbers awaiting those documents: the lack of completing those cases is a concrete and particularized actual ongoing continuous event of obstruction of justice, not conjectural or hypothetical.[36]

"Since the power of a court to hear appeals from lower courts is appellate jurisdiction: it is obvious to any prudent and sentient observer that not one of the cases included in the issues raised in this petition has ever issued a full and final ruling. Documents are provided for what was issued. [37]

[36] The "injury is fairly traceable to the challenged action of the defendant", and "it is likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision : El Paso Cnty. v. Trump, 982 F.3d 332, 336 (5th Cir. 2020) (quoting Friends of the Earth, Inc. v. Laidlaw Env't. Servs. (TOC), Inc., 528 U.S. 167, 180–81 (2000))

[37] Exhibits AA, X, R, V, W, Z, CC, DD

Facts and evidence in all cases indicate the defendants in each case: lost the case and have enjoyed unparalleled and totally unwarranted immunity ever since the orders were stopped from being issued. But even if they had somehow miraculously prevailed, no one has an order upon which an appeal could be taken.

Prosecutors[38], far exceeding statutes of limitations[*22][39], have no legal authority to withhold jurisdiction from these appeals, districts and state courts. The literal multiple escape from prosecution this series of massive delays has created, [is pure obstruction and completely] reprehensible in a free and fair society.

> "In an opinion released May 26, 2015, Kellogg Brown & Roots Services, Inc. v. United States ex rel. Carter, the U.S. Supreme Court unanimously held that whistleblowers cannot extend the statute of limitations for war-related civil false claims under the Wartime Suspension of Limitations Act ("WSLA"), reinstating an already generous statute of limitations period under the civil False Claims Act ("FCA"). "[*23]

This prohibition must apply to the practice of

[38] https://www.federalcharges.com/federal-statutes-of-limitations/

[39] Starred references refer to the reference explanation content of JUSTICE Appendix "M"

capturing and hiding civil cases that involve crimes. The only people being protected are the perpetrators. Prosecutors should be held accountable for their discretionary decisions. Inmates of Attica Correctional Facility v. Rockefeller 477 F.2d 375 (2nd Cir. 1973) "Prosecutors cannot be compelled by the courts to investigate and initiate criminal prosecutions." * = within. Discretion must only be applied to individual charging decisions about a specific person's justice system experience. Discretion CANNOT BE refusal to enforce laws. THAT, no matter what the reason may be, is simply tyranny and malfeasance and obstruction of justice. If a decision was made not to prosecute; that requires return of jurisdiction for the cases to the originating Civil Court or due process comes to a halt. Prosecutors, as officers of the court should be required to inform the court of every decision that causes a hold or a release." (JUSTICE May 1, 2022 Lee Kent Hempfling attached included in full.)

Five civil cases are on hold. There can be no other

legal means to withhold those cases than the one thing they all have in common: Criminal activity during trial. There can be no question whether the Clerk of the respective Courts reported those crimes. The crimes are against the courts. To not have reported would have been a crime. Clerks do not commit crimes on behalf of the court. Mail theft and Censorship in federal courts make the cases, victims of obstruction of justice. Not a party to them.

There is no criminal activity from which a legal parallel proceeding could commence inside the facts of any of those cases, save: the case Hempfling v CVDC Holdings LLC et.al. Arizona Superior Court in Pinal County alleged Dental Malpractice, Fraud And Embezzlement: (statues of limitations have long expired on those allegations that were criminal in nature), and the counter-claim in response to Hempfling v LM Communications in the South Carolina District Court, which has no bearing on the employment discrimination suit it was filed in response to and has never been addressed in over 17

years by the court. Both federal District court cases are 'in another court': i.e., both appeals courts maintain control over those cases, but they do not enjoy jurisdiction.

There is no greater seriousness than multiple attacks on, and the destruction of the dignity of the appellate jurisdiction and integrity of the United States Judiciary Branch. There is no other forum where jurisdiction may reside in these matters. Courts of relative jurisdiction are victims of criminal acts. No appropriate relief is attainable without this original jurisdiction matter[40].

This Court has jurisdiction pursuant to Article III, Section 2, Clause 2:; 28 U.S. Code § 1651 (a) and Supreme Court Rule 21 2(a).

In the instant case the Department of Justice is withholding publication and completion of civil cases in the Fourth Circuit, the Ninth Circuit and the State of Arizona Superior Court. The Department does not

[40] 425 U.S. 794 96 S.Ct. 1845 48 L.Ed.2d 376 State of ARIZONA v. State of NEW MEXICO. May 24, 1976.

have the legal right or ability to withhold publication of these cases as this petition explains.

The writ will be in aid of the Court's appellate jurisdiction: as it will return that jurisdiction to the courts.

> "The entire fiasco can only be described as a failure to prosecute. Abandonment. A moment past expiration of the legal ability to prosecute and the issue has been abandoned."[41]

Or a decision to not prosecute was made and kept secret.

Exceptional circumstances warrant the exercise of the Court's discretionary powers: in that both circuits, both local districts with direct jurisdiction and the Arizona Superior Court are victims in the criminal actions leading to this action: and cannot participate in the decision required here and will benefit from that decision.

Adequate relief cannot be obtained in any other form or from any other court: in that there exists conflicts of interest that might infringe on equal protection, and issues creating the background of the

[41] Exhibit M (JUSTICE May 1, 2022 Lee Kent Hempfling.)

instant case are intensely criminal and highly supported from court dockets, the courts' own investigations; providing probable cause beyond any reasonable doubt, but past the limit to prosecute in most instances.

> "The potential for unbridled corruption is evident when felonies committed against the United States (Judicial branch) can be hidden by a technique that has no sunlight, nor review. It is the 'rule of law' only for those controlling the law. People can be protected. Civil cases can be destroyed without recourse. In fact, this one specific issue (holding civil jurisdiction away even past legal limitations to prosecute) has no recourse in law. Law is centered around the legality of "actions". In this instance, the legality of "inaction" has a devastating result to justice when it casts civil rights not only to follow criminal rights, but to not be relevant. That improper withholding is taking advantage of a condition where no remedy exists. It must."[42]

Constitutional and Statutory Provisions Involved

First Amendment's right to redress of grievances and the First Amendment's right to free speech. What is protected speech in regards to the Judicial Branch?

Fourth Amendment's Section 1: No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life,

[42] JUSTICE May 1, 2022 Lee Kent Hempfling

liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Fifth Amendment's right to not be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Fourteenth Amendment's equal protection.

Factual Background

A: Definitions

Federal courts have deferred civil proceedings pending the completion of parallel criminal prosecutions when the interests of justice seemed to require such action, sometimes at the request of the prosecution[43].

As defined:[44] A parallel proceeding § 12.24 (a) (1) [is]

> "An arbitration proceeding or civil court proceeding, involving one or more of the respondents as a party, which is pending at the time the reparation complaint is

[43] In UNITED STATES v. KORDEL ET AL. 397 U.S. 1 (1970)

[44] Title 17:(Commodity and Securities Exchanges CHAPTER I - COMMODITY FUTURES TRADING COMMISSION PART 12 - RULES RELATING TO REPARATIONS Subpart A - General Information and Preliminary Consideration of Pleadings § 12.24 Parallel proceedings)

> filed and involves claims or counterclaims that are based on the same set of facts which serve as a basis for all of the claims in the reparations complaint."

The term parallel proceedings, as defined by the American Bar Association in the book Parallel Proceedings By Miriam Weismann[45]; refers to the

> 'simultaneous or successive investigation or litigation of separate criminal, civil, or administrative proceedings commenced by different agencies, different branches of government, or private litigants arising out of a common set of facts'.

Put simply, the opinion in Kordel stated that the government cannot bring a civil action solely to obtain evidence for a criminal prosecution, adding that it may be an abuse of process should the government "fail to advise the defendant in its civil proceeding that it contemplates his criminal prosecution." Notably, the Supreme Court acknowledged that where there are parallel proceedings, there may be: "special circumstances that might suggest the unconstitutionality or even the impropriety of [the] criminal prosecution. The question that remains after Kordel is what are those "special circumstances"

[45] https://www.americanbar.org/products/inv/book/214925/

Significantly, at the core of the opinion in Kordel is the notion that the government must not act in such a manner as to subvert the “fundamental fairness” requirement of the due process clause or depart from the proper standards in the administration of justice."

B: Same Facts

No allegations involved in criminal activity inside court trials arose from the same set or even substantially the same set of facts as the cases the crimes were committed within. The crimes are not related to the cases other than having taken place within them.

Each case referenced here has concluded, establishing facts as a matter of law, but none has published or disseminated those facts in rulings or opinions. Cases have mandated without so much as a whimpering of the established facts. Those facts establish what the facts are for determination of the 'same set of facts' required for a legal parallel proceeding to exist.

Those facts, different for each listed case, are specifically not of interest here. What is of interest is whether the facts of the cases can be, in any way considered to be the same set of facts for the crimes committed inside the cases. Of course not.

Theft of mail addressed to a court makes the court the victim. There is no fact in any listed case related to mail theft or the court.

Censorship of a court by a state actor is in no way related to any fact of any listed case.

In this situation, the risk of self-incrimination does not exist. No crimes reported and alleged inside court trials involve anything to do with the allegations, facts and truth of the cases themselves.

In United States v. Rand, 308 F.Supp. 1231, 1234 (N.D.Ohio 1970), the court held that the Government may not engage in “an obnoxious form of using parallel proceedings.”

In the instant case there can be no question that not one single allegation made of criminal activity is in any way 'related' to the same set of facts of the

civil cases from which they arose.

The Department of Justice's own Legal Glossary does not even contain the term related, or relate. How convenient [46]. [47]

Employment Discrimination (Hempfling v LM Communications et.al. District of South Carolina), Medical (Dental) Malpractice (Hempfling v CVDC Holdings et.al. Arizona Superior Court): do not, in any way present common questions of law and fact with any criminal activity taking place regarding those cases. The Phoenix District Court case established a rule 62 violation by the Superior Court.

Absolutely no duplication of labor of assigned judges could ever be involved. Likewise there can be no interests of justice that require such action of withholding the listed civil cases, other than punishing the Plaintiffs of those cases for the criminal acts of others while protecting them.

C: Due Process Violation

[46] https://www.justice.gov/usao/justice-101/glossary#r
[47] Jab Industries, Inc. v. Silex S.P.A., 601 F. Supp. 971, 980 (S.D.N.Y. 1985).

UNITED STATES v. STRINGER III United States Court of Appeals, Ninth Circuit. No.?06-30100. Decided: April 04, 2008[48] sets up a parallel case procedure. The 9th Circuit anchored its decision in the Supreme Court's holding in United States v. Kordel[49], which stated the government can conduct parallel civil and criminal investigations without violating the due process clause so long as it does not act in bad faith.

Bad faith is defined by the Law Dictionary[50]: Regardless of what the actual intentions are to prohibit completion of civil cases, the simple fact that not one element of a legal parallel proceeding has been met: must bring heightened judicial scrutiny and intervention. [51]

> "Because federal courts have a virtually unflagging obligation to exercise the jurisdiction given them the surrender of jurisdiction in favor of parallel state proceedings is permissible only in exceptional

[48] https://caselaw.findlaw.com/us-9th-circuit/1470245.html

[49] https://caselaw.findlaw.com/us-supreme-court/397/1.html

[50] n. intentional dishonest act by not fulfilling legal or contractual obligations

[51] Freed v. J.P. Morgan Chase Bank, N.A., 756 F.3d 1013, 1018 (7th Cir. 2014) Quoted in BAEK v. CLAUSEN United States Court of Appeals, Seventh Circuit. No. 16-3838. 886 F.3d 652 (2018.)

> circumstances." [52]
>
> "Duplication and inefficiency are not enough to support a federal court's decision to bow out of a case over which it has jurisdiction." [53].

D: Censorship

> "The First Amendment protects American people from government censorship. But the First Amendment's protections are not absolute, leading to Supreme Court cases involving the question of what is protected speech and what is not." [54]

The published, or issued or made public product of the Judicial Branch must be sacrosanct. If what a court says is not protected speech, nothing can be protected speech.

The Supreme Court determined[55] that an electric utility possessed the right of free speech in that a government prohibition of speech violated the First Amendment and Fourteenth Amendments.

> "(a) Although the Constitution accords a lesser protection to commercial speech than to other constitutionally guaranteed expression, nevertheless the First Amendment protects commercial speech from unwarranted governmental regulation. For commercial speech to come within the First Amendment, it at least

[52] Villa Marina Yacht Sales, Inc. v. Hatteras Yachts, 915 F.2d 7, 12 (1st Cir.1990) quoting Colorado River, 424 U.S. at 818 & 819, 96 S.Ct. at [931 F.2d 146] 1246 & 1247 Id. at 12 (quoting Moses H. Cone, 460 U.S. at 16, 103 S.Ct. At 937).

[53] Villa Marina, 915 F.2d at 13. Quoted from BURNS v. WATLER No. 90-1927 931 F.2d 140 (1991) First Circuit

[54] (Censorship By Elizabeth R. Purdy The First Amendment Encyclopedia)

[55] Central Hudson Gas & Elec. v. Public Svc. Comm'n, 447 U.S. 557 (1980)

> must concern lawful activity and not be misleading"[56].

Opinions, memorandums, orders and the like generated by a Court in this country cannot have less free speech protection than the lesser protection afforded to commercial speech. The "First Amendment protects commercial speech from unwarranted governmental regulation" so does it also protect speech generated by a Court "from unwarranted governmental regulation," whether by law, edict, order, statement, deal, favor, mandate or governmental censorship.

Any restriction of a Court's work product is anathema to the very foundations of Constitutional Liberty.

The Legal Dictionary defines protected speech as:

> "The right, guaranteed by the First Amendment to the U.S. Constitution, to express beliefs and ideas without unwarranted government restriction[57]."

The requirement is the act of censorship must be performed by the 'government'. The 'government' is any Constitutionally created entity that governs,

[56] Central Hudson Gas Pp. 447 U. S. 561-566s."

[57] https://legal-dictionary.thefreedictionary.com/Protected+speech

including federal, state and local governments. When one government censors another government the issue of protected speech must be superfluous. The government's use of private or public entities that are not government[58], to carry out an act of censorship[59] makes that entity a state actor[60].

The Right to freedom of speech was ratified on December 15th, 1791. In those 230+ years no one has ever attacked the speech of the Judicial Branch by blocking the court's ability to be heard by the public.

No one had the boldness to even consider holding a court's work product in secret. No one had the recklessness to purposely withhold a valid court's output from public view. No one has had the audaciousness to attack a court's filing by capturing

[58] Exhibit "N" page 49 Uncovering The Secret Google World Of Corrupt Search Censorship "Someone who personally claims to enforce law and order, but lacks legal authority to do so. Vigilantes operate by using actual or threatened force, and are distinguished from people who simply watch out for criminal behavior and report it to the police." The process circumvents congress' creating law and replaces judicial process with vigilante edict.

[59] Exhibit "O" Page 65 Title: Grimhilda! "a fantasy for children, and their parents, by Mike Crowl" blocks courts.

[60] Exhibit "P" Page 68 The Significance of Google's STOPPING Censorship of the US Courts "It was noticed on August 29, 2019 that Google had stopped blocking that document. That means SOMEONE OTHER THAN GOOGLE (think law enforcement!) ordered them to allow that document to be found in search. There is no way Google would have ended the censorship on its own [Lumen controls that] and no way any defendant would have ordered it ended as both would have nailed the perpetrator for blocking it in the first place."

it from public scrutiny. In this era people are increasingly dependent upon the Internet and specifically the Google search engine[61], to learn of developments of the courts[62].

Was the act of censoring of the court's output from public view[63] a violation of free speech protected by the constitution or was it a theft of that work product? Or both? Or worse? In Texas v. Johnson, 491 U.S. 397 (1989) the court stated,

> "If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable."

The same applies to the government withholding publication of legally filed civil court cases. SCOTUS June 19, 2017, Associate Justice Anthony Kennedy stated:

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[61] Exhibit "N" UNCOVERING THE SECRET GOOGLE WORLD OF CORRUPT SEARCH CENSORSHIP page 49 “Google, through the system created at Lumen Database had been censoring and blocking access to the 9th Circuit Court of Appeals December 26, 2017 memorandum for Hempfling v. Volkmer.”

[62] Appendix "Q" TRUTH October 2022 page 86 "Lumen Database is where authors get revenge. If someone has stolen your content, or has violated your copyright you can complain to Google and Google will file a report with Lumen Database which then provides the rest of the world with sanitized links to content that supposedly does not violate copyright. In Other Words: Lumen Database is where Google and most likely other bad actors go to have site url’s listed as copyright violations to keep them out of search results. Our case was censored from the court by using a children’s book copyright. The Federal Court blocked by a children’s book.”

[63] Exhibit "O" Title: Grimhilda! page 65 “Accessing the link where the "so called" complaint was submitted by Google Inc. The complaint though, for a search involving only a federal District Judge and a Lawyer is actually said to be about a book:”

> "The forces and directions of the Internet are so new, so protean, and so far reaching that courts must be conscious that what they say today might be obsolete tomorrow."[64]

If a court is permitted to say anything, that is. This is an issue of the obstruction of justice, where a state or county government representing its officers in court, controlled by the Attorney General (Arizona: Mark Brnovich, a defendant in official capacity, replaced by Kris Mayes in 2022's election) or County Prosecutor (Kent Volkmer, Pinal County, a defendant in official capacity) or at their or other's direction, respectfully, managed to use Google (Alphabet) as a state actor to censor[65] the Ninth Circuit and the Phoenix District Court[66].

According to The House Judiciary subcommittee on antitrust's 450 page report published in 2020[67]

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[64] Packingham, v. North Carolina Lester Gerard Packingham, Applicant v. North Carolina No. 15–1194

[65] Exhibit "P" The Significance of Google's STOPPING Censorship of the US Courts page 68

[66] Within the exact same time frame as the crimes committed in acts of censorship, Mark Brnovich's wife Susan Brnovich was pending appointment as a United States District Judge of the United States District Court for the District of Arizona confirmed by the U.S. Senate on October 11, 2018, Michael G. Bailey, Brnovich's former chief of staff was pending appointment as the United States Attorney for the District of Arizona sworn in June 2019. Bailey's wife Cynthia J. Bailey was pending appointment to the Arizona Court of Appeals in April 2020 and Mark Brnovich himself ran for U.S. Senate from Arizona in 2022.

[67] https://fm.cnbc.com/applications/cnbc.com/resources/editorialfiles/2020/10/06/investigation_of_competition_in_digital_markets_majority_staff_report_and_recommendations.pdf

> "The overwhelmingly dominant provider of general online search is Google, which captures around 81% of all general search queries in the U.S. on desktop and 94% on mobile."

That market dominance is tantamount to complete censorship of the existence of a court case product.

Associate Justice Kennedy continued :

> "the Court must exercise extreme caution before suggesting that the First Amendment provides scant protection for access to vast networks in that medium."

As the individual rights of Americans are protected by the First Amendment, even using the Internet, the question becomes obvious: what exactly is censorship on the Internet?

Since the first requirement must be a governmental act, the First Amendment states it is the Legislative Congress who may not pass a law that abridges those rights. But it is not just congress that can censor as a governmental entity. The overwhelming power of the executive branch may not be brought to bear to exercise the power of censorship either. Neither may the Judiciary. Congress passes laws, the executive is charged with enforcing those laws. One cannot be held harmless while the other is

not.

The Executive does not: and cannot have such veto power over the Judiciary so as to curtail the Judiciary's speech where to do so would nullify the Judiciary's place in the checks and balances of the nation's structure. But the executive has done just that[68].

In the past there have been instances where the Executive has refused to enforce Judiciary rulings and defied the Supreme Court. But not once did any person even consider the potential of muzzling, or sequestering, or censoring, of blocking the Judiciary from being heard at all.

A state or county government, through its elected or appointed officials, may not cause censorship of a Court's deliberative product. If such an act could be permitted the Judiciary better be the same politics as the Executive or there would not be a Judiciary any longer.

In the instant case, the act of state sponsored

[68] Exhibit "O" Page 65 Title: Grimhilda!

censorship of a Judiciary deliberative product is a matter of court record, on the dockets. But that act of state sponsored, state actor performed censorship, as abhorrent as it is: is not and cannot be the same facts or similar facts or similar parties or the same parties to the legal action within which the crime of censorship was committed.

Just as a Court whose incoming mail containing legal filings having been stolen is the victim of a crime, that of mail theft, likewise that same court is a victim of a crime when a state uses a state actor to censor that court in the single largest most overwhelmingly controlled Internet source of search.

The people's right to an open and free Judicial process must be preserved. So far, the public does not know, and has not been rightfully informed in pure sunlight of the existence of state sponsored Censorship of the Judiciary. That lack of knowledge is harmful to the entire population and to the sanctity of the Constitution and Bill of Rights.

E: Mail Theft

Multiple items of legal mail addressed to the Court (each listed Court, except The Arizona Superior Court case,) was stolen while in transit to the Court Clerk's office. Since the recipient of US Mail owns the letter or package the moment the Post Office takes possession of it, the victims of the crime of mail theft are the Courts and the Clerks. Petitioners did not buy insurance for any legal mail so are not victims of its theft. The Court is.

In the Fourth Circuit, in 2004-2005-2006 Charleston District Court, mail sent to the Court Clerk's office was stolen, and later was 'found' and delivered to the Court Clerk's office by the Post Office. Additional mail disappeared from the Clerk's office. Each time, the sender of those mail pieces (Applicants) notified the Court Clerk of the commission of those crimes. 18 U.S. Code §1702. Obstruction of correspondence; 18 U.S. Code §1708. Theft or receipt of stolen mail matter generally; 18 U.S. Code §1709. Theft of mail matter by officer or

employee.

In the Ninth circuit, literally over a decade later (2015, 2016, 2017, 2018, 2019) the same scheme. Mail was stolen and misdirected to international distribution centers, as well as stolen and removed from delivery a total of five times during the District Court and Appeals court trials. A sting was devised in the Ninth Circuit Appeals case, after mandate that found the contents of the letter to the Court Clerk to be known by defendants in two different federal cases: Hempfling v Volkmer(Voyles) and Hempfling v Stanford.

The Court and Clerk's offices are victims of felonies related to mail handling. No prosecution has ever commenced in those thefts and now that the US Postal Service Postal Inspectors have been 'defunded': "Frank Albergo, president of the Postal Police Officer's Association[69], said officers have been sidelined by USPS since August 2020.

> 'Essentially, the postal service defunded the postal police force,'

[69] https://abc13.com/usps-postal-police-mail-theft-us-service-fraud/10863268/

Albergo said: there appears to be no potential of the presentation of any mail crimes for prosecution.

The mail theft issues involved in the civil cases listed occurred long before the curtailing of law enforcement in the post office.

But, just like censorship, the criminal act(s) are not in any way related to the same set of facts as the civil cases they occurred in closeness to. The parties are not the same. There can be no potential of a legal parallel proceeding for mail theft that could hold up any of the listed cases from publication.

Albergo said:

> "just before USPS ordered them to stay on postal property, officers received crime mapping technology"... "The equipment is sitting in boxes," Albergo said. "They bought it to stop mail theft and then they're like, 'Let's not use this equipment. Let's just leave it in the boxes.'"

Only the counter-claim filed in Hempfling v. LM Communications LLC et.al. would be able to have a parallel proceeding (statues of limitations have long expired for allegations made in the Pinal County Superior Court malpractice case.) But that counter-

claim in Hempfling v. LM Communications LLC et.al. has never been addressed publicly by the court, it has no bearing on the original claim filed in Hempfling v. LM Communications LLC et.al., and Applicants do not object to the counter-claim being withheld pending a valid parallel proceeding. Although it has been over 17 years since that should have happened. OVER Three times the length of the federal statute of limitation.

F: Bribery

In 2011 the initial Arizona law suit was filed in Arizona Superior Court as a dental (medical) malpractice case plus other allegations stemming from a 2009 dental procedure and the subsequent total destruction of both Trigeminal nerves[70] of Applicant Suesie Kent Hempfling.

The current[71] Clerk of Court Rebecca Padilla, was serving as the manager of the Apache Junction field

[70] https://my.clevelandclinic.org/health/body/21581-trigeminal-nerve

[71] (Appointed to fill the vacancy left when defendant Amanda Stanford was forced to resign that position, and since elected)

office of the Pinal County Clerk of Court. Padilla is the clerk who identified the missing initial response documents of all defendants as 'trash' since none had been entered on the docket a full 10 days after the deadline to do so had passed. A notice of default was not filed at that time but was later, after evidence was introduced, requested by court order. No such order was ever issued. Those missing response documents were 'found' by then Clerk of Court Chad Roach and entered on the docket but the defense counsel representing the overwhelming majority of the defendants in the case was never recognized as having appeared. Ever. The case was locked down in perpetual limbo in direct violation of Rule 62, Stay. No hearing was held and procedural due process was violated. That prompted the Phoenix District Court case filed to stop the county and state from withholding that case and to stop violating the Applicants' rights. Then that case was blocked.

The original case Hempfling v. CVDC Holdings LLC et.al., is not the same set of facts nor the same

parties as any bribery investigation that may arise from the acts caught by Clerk Padilla. Any bribe offered to hide appearance documents took place outside of the case, before the docketing of those documents and not at all in relation to the case itself. It is not a valid parallel proceeding to build a criminal case from a civil case that is not related to it, other than the obstruction of justice the bribery caused upon the Plaintiffs in that case (Applicants.) A default[72].

G: Obstruction

18 U. S. C. §1509. Obstruction of court orders states that: "No injunctive or other civil relief against the conduct made criminal by this section shall be denied on the ground that such conduct is a crime. "

Procedural Background

Applicants have tried over the many years to

[72] Exhibits E, Y, BB, W, X, Y

raise responses from the Department of Justice[73], The DOJ's Office of Professional Responsibility[74] with official complaints, the DOJ's Office of Inspector General with informative allegations and demands[75], Attorney General William Barr[76] and Attorney General Merrick Garland[77] with official complaints[78], and FOIA has been filed with the DOJ. To date, no reasonable response has been forthcoming. The response to the FOIA[79] request was to have the request forwarded to the Office of Professional Responsibility (when it should have been sent to U.S. Attorneys in Arizona and South Carolina), but it was sent to the Office of Inspector General[80] to have a response generated to a question that was never asked.[81]

[73] Exhibits F, G, H, I, J, K, L, plus a 21 count 'information' was filed with DOJ and ignored.
[74] Exhibit J
[75] Exhibit H
[76] Exhibit F
[77] Exhibit G
[78] Exhibit I
[79] Exhibit K
[80] Exhibit L
[81] (C) When the community needs to be reassured that the appropriate law enforcement agency is investigating a matter, or where release of information is necessary to protect the public safety, comments about or confirmation of an ongoing investigation may be necessary, subject to the approval requirement in subparagraph A. (1-7.400 - Confidentiality and Media Contacts Policy; Disclosure of Information Concerning Ongoing Criminal, Civil, or Administrative Investigations (B))https://www.justice.gov/jm/jm-1-7000-media-relations

Whether the long and silent delays for any prosecution mean hidden indictments withheld for a greater justice (still illegal when based on any of the criminal allegations involved,) or whether those allegations were swept under the darkness of deceit to never see the light of day and permitting no other means of correction than this petition: the only end to this reprehensible fiasco is this request.

Reasons for Granting the Application

This Application for a Writ of Procedendo to the Appeals Courts of the Fourth and Ninth Circuits, the District Courts of Phoenix and South Carolina and the Pinal County Arizona Superior Court to stop withholding the listed cases from completion is filed to stop a continuously active and imposing draconian restriction of First Amendment, Fourth Amendment, Fifth Amendment and Fourteenth Amendment rights based on non-legal withholding.

There is a "Significant Possibility" this Court would grant the Writ of Mandamus and compel the

Department of Justice to stop violating Constitutional rights.[82]

The facts as presented here are absolutely, indisputably clear.

With multiple cases in multiple districts, circuits and a state court held from completion for one common reason: crimes committed against the cases and the courts hearing them, resulting in obstruction of justice to the Plaintiffs' of those cases and victim status for the Courts: granting of this Application is necessary to both protect the sanctity of the Judiciary and the Independence of the Judiciary Branch, as well as the rights of the Applicants.

Applicants are likely to prevail on their Due Process claim

In light of the condition of each of the listed cases, that of trials completed, hearings finished, cases closed and empty docket numbers (some with placeholder memorandums) the existence of those

[82] Turner Broadcasting System, Inc. v. FCC , 507 U. S. 1301, 1303 (1993) (Rehnquist, C. J., in chambers) (quoting Communist Party of Ind. v. Whitcomb , 409 U. S. 1235 (1972) (Rehnquist, J., in chambers)).

conditions, with the underlying fact of no possible legal parallel proceeding existing, is proof of the Department of Justice's violation of both procedural and substantive due process guaranteed through the Fifth Amendment and Fourteenth Amendments.

Applicants Have Suffered Irreparable Harm

Literally multiple years have passed for all of the listed cases rendering collection of any awards nearly impossible. That delay must result in restitution for the withholding of the cases from completion. The Arizona Superior Court alone, a case that ended in default as identified by a clerk of court was required to have awarded the demanded damages by the Arizona Constitution[83]. Demands made in all other listed cases have likewise been withheld, while every additional day is yet another suffering.

The Balance of Equities Weighs in Applicants' Favor

[83] That case alone began at $70,000,000.00 (based on the demanded $5,000,000.00 per defendant with the court having added defendants to the case.) The interest for that award alone was in excess of $14,300,000.00 in September of 2021.

Given the significant constitutional injuries here, the balance of harms and public interest favor Applicants. Applicants have shown that the balance of harm tips in their favor, where their constitutional rights are being violated. In contrast, The Department of Justice cannot show that it will be harmed. Applicants have shown that The Department of Justice is unreasonably infringing on their constitutional rights when the correct constitutional standards are employed, so enjoining that violation is in the public interest.

A Writ of Procedendo to the Courts to regain jurisdiction and execute final orders in each listed case will cure the hostage situation placed upon the listed Courts.

'"Although state actors are generally governmental employees' including the state and local levels, private parties may be deemed a state actor for the purposes of a Section 1983 action if "(1) the state compelled the private party's conduct, (2) the private party acted jointly with a state, or (3) the private party fulfilled a role that is traditionally a public function performed by a state."[84]

No remedy at law for a condition that has no

[84] Baez v. JetBlue 4/"Airways, 745 F. Supp. 2d 214, 221 (E.D.N.Y. 2010) (citing Sybalski v. Indep. Grp. Home Living Program, Inc., 546 F.3d 255, 257 (2d Cir. 2008))."[*15]

consequence to abuse.

The conditions created by the capturing of jurisdiction for civil cases, having now exceeded all possible legal outcomes are irreparable and forever forced into a perpetual state of legal purgatory.

The prosecutor who holds a civil case in abeyance[85] should be required to report to the court the case belongs in, regularly, what the status is.

"There is no greater tyranny than that which is perpetrated under the shield of the law and in the name of justice." Baron de Montesquieu.

February 3, 2023

Respectfully Submitted,

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[85] The Brady Rule [*18] was enacted to deal with prosecutors who are required to disclose any evidence favorable to the accused. There is no Rule that would keep a prosecutor honest by making cases no longer able to be hidden. There needs to be a rule!