No. 22-

IN THE SUPREME COURT
OF THE UNITED STATES

STEPHEN LYNCH MURRAY, Petitioner

v.

JANELLE IRWIN TAYLOR, ET AL, Respondents

On Petition for a Writ of Certiorari to the
District Court of Appeal, Fourth District
State of Florida, West Palm Beach, Florida

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Can the government deputize private actors to attack political speech and thereby abridge political speech using law and case law in civil court?

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2. Can a state civil court classify political speech as a crime without witness or discovery and relying on undisputed perjury, and dismiss a defamation lawsuit, whether compelled to do so by law and code of the state or with discretion, with the effect of protecting and participating as instrument in a government attack on political speech, by stripping a private citizen of traditional protections against defamation, in a special circumstance contrived by government in its own interest, to selectively deputize and bolster and reward a non-government actor, toward the purpose of using false and malicious defamation to penalize the private citizen in retaliation for speech petitioning that same government with grievances?

Mankind gravitates toward the will of the majority faction delivered by the executive branch, and away from judicial processes which insulate the pursuit of abstract truth and justice, and the rights of the individual, against political incentives. These forces

proving irresistible, the State of Florida has evolved a variety of publicly-supported processes for preempting the right to a jury trial and attacking citizens without due process, which consist primarily of rewarding rather than prosecuting perjury against targets of the executive branch. A key element in this is using mass communication, to turn lies and hearsay into admissible evidence, and to incite against the accused, depriving the accused not only of fair trials, but of reputation and opportunity without due process. This deputizes private citizens to do what the government is restrained from doing, by contriving the activity of private citizens and pitting them against one another through the means of opportunity, coercion, reward, and concealment of facts, and then insulating citizens so doing the will of the executive branch from designed recourse and penalties in law (generally shifting the locus of decision-making to the discretion of judges and elected officials with political incentives, and away from cumulative review by juries of peers). These are considered legitimate parts of the criminal justice process in the state of Florida.

3. Are all the individual elements and the sum of these same general processes constitutional when used by the government to attack and retaliate for political speech directed toward that same government? Can a judge dismiss a civil case where the sum pares or ignores the right to petition the government with grievances?

4. Florida has a new "Cyberstalk" statute which is

sufficiently vague that it can be used to arrest someone for snarky private emails to a jerk elected official about unrelated political topics and figures, and driving over a bridge to post political fliers outside a law school, particularly when bolstered a) with a standard policy of rewarding and not punishing police who lie in arrest affidavits with the consent of the majority faction, b) with political influence, and c) with the general bias of police and courts against speakers from opposing factions, in a time when national polarization infects all public interactions. Can a private citizen whose political speech is so attacked, be selectively deprived by state courts, law, and case law, of a remedy necessary to ex post facto protect his right to petition his government with grievances?

5. If the "Cyberstalk" statute is so vague that it is likely to result in the events in this case, then whether it is enforceable might turn on whether the state can insulate errors from judicial review and appeal, whether errors can be cured immediately after the fact, or whether they are insulated from any adequate remedy ever by judicial rules, laws and case law, or as a practical matter by time and costs of appeal and political resistance. Is the entirety of the design not just a freak event or error, but a designed means through the "Cyberstalk" statute (in concert with other means like overlooked perjury), to criminalize political speech, which design incorporates and necessarily relies on the discretion and present ruling of the Florida circuit court? And is the circuit court, as the final arm of government

necessary for this attack on political speech, bound to refrain from dismissing complaints against the end result of this process, and turn it over for review by a jury of private citizens, in the special asserted case of political speech?

6. If, with public support, false and malicious defamation becomes gentrified as a designed part of the criminal justice process, which can be delegated to non-government actors and insulated to deprive targets of reputation and opportunity without due process, can that same process be weaponized to define political speech as criminal and punish it without witness or discovery, using perjury, and even if the originating criminal classification is abandoned at the discretion of judges or prosecutors, like when no charge is ever filed?

After this case failed in criminal court (after Petitioner had already suffered from it, was denied speech rights for five months, and had his future speech rights chilled), the first actor in this case to knowingly and explicitly classify political speech as criminal and cause for arrest was a civil defense attorney who wrote that in a proposed order containing false and misleading statements. That order classifying political speech as criminal was then signed by the circuit court, affirmed by the district court of appeals, and rejected for review by the Florida Supreme Court as not in their jurisdiction.

7. Can judges in civil court define speech as criminal

rather than political and punish it, without witness or discovery of that speech or examination of alleged perjury about that speech, and even in the face of a sworn statement by the political speaker and only official witness that the arrest affidavit is misleading and contains perjury, together with evidence and witnesses that the underlying activity so criminalized and punished was posting political fliers outside a law school, and was known to be by the arresting officer who lied? 7.1 Can due process and rights in criminal proceedings be circumvented (particularly where criminal processes fail or charges are invalid in criminal court) by punishing targets in the jurisdiction of civil courts, by delegating punishment to non-government actors who can deprive the target of reputation and opportunity and incite mobs against him, without witness or discovery and relying on perjury? 7.2 If private citizens have the right to do this to one another, can individual instances of such private conflict be elevated and protected by the government and for the interests of government, when the instance they choose to bolster is an attack on political speech? Can government puppet as a private citizen, and launder it?

8. Can preferred and bolstered agents of government (e.g. paid through quid pro quo) get around the Bill of Rights in civil court?

9. The current Florida scheme to deputize novel web bandits with special speech privileges, designed for the interests and glorification of government

officials, forces a choice on private citizens accused of crimes to either give up privacy and the right to remain silent by publicly pushing back on the lies, or give up reputation and opportunity and ordinary recourse for defamation - and even the right to a fair trial - without due process. Does the right of some clown on the web to make 10 cents defaming a private citizen with false and unsubstantiated nonsense, and the right of government actors to defame targets of their aggression by protecting this, trump the right of private individuals to fair and honest criminal justice outcomes, which comprise a plurality of the Bill of Rights, and are necessary for national harmony?

10. If police are immune to make false statements, can that immunity be transferred through a quid pro quo, in a collusive arrangement with non-government actors, to broadcast and amplify those false statements for the purpose of profit rather than criminal justice? Is the statement immune, the actor immune, or the activity immune, and was immunity contemplated for the activity of false and malicious defamation for profit and amusement?

11. The government through novel media and communication paradigms has millions of agents available. And so the slightest incitement by government is not just a threat, but an attack with effect. Does the First Amendment elevate mass inciteful speech by government against an individual, over private non-inciteful speech by an individual against government?

12. Does advertising and publishing over and over, at the behest and under the express protection of government, the false statement that a private citizen criminally approached a public political figure with stealth, and disseminating similar false, embellished and inflammatory misinformation about a large enough number private citizens for a long enough period of years and on a large enough scale, in the new context of the Internet and current social conflict arising therefrom, fit the "time" and "circumstance" considerations in "Schenck v. United States", to become an incitement - a demagoguery to agitate the mobs and factions in the streets - which risks the self-preservation of the nation itself, in a proportion that exceeds any merits within the values of the First Amendment?

13. Did the anti-federalists imagine less powerful private individuals would stop more powerful police and government officials attacking and slandering them, and therefore explicitly secure that right in the First Amendment before consenting to the creation of a strong government? Did the anti-federalists secure in negotiation with James Madison the right of government to attack and slander private citizens in retaliation for political speech and at the expense of the right of private individuals to petition that same government with grievances?

PARTIES TO THE PROCEEDING

Petitioner is Stephen Murray, a private citizen in the state of Florida at the current time and at the time of all relevant events.

Respondents are Janelle Irwin Taylor, an individual who provides content to the website floridapolitics.com, and Peter D. Schorsch, an individual who provides content for, edits, and owns the website floridapolitics.com, and Extensive Enterprises Media, a Florida Limited Liability Company, with business activities that include the floridapolitics.com website.

STATEMENT OF RELATED PROCEEDINGS

Petitioner argues the following cases are related in the sense that in each one Petitioner "challenges the same criminal conviction or sentence as is challenged in this Court", to the extent that Florida officials and Florida courts hold defamation and illegal government activity to be designed and fair parts of criminal justice, by case law, custom, and asserted authority, and outside any official or codified process. Florida state officers and courts have the consent of voters who consider defamation and illegal harassment fair outcomes or punishments for accused criminals outside strict due process. Petitioner argues that he is appealing a standardized and designed form of criminal punishment in Florida, on the basis that in this case it is a punishment for political speech. And like in "Whole Woman's Health v. Jackson" Petitioner has been "convicted" in civil court specifically to evade the constitutional constraints of criminal court.

State of Florida vs. Stephen Lynch Murray, No. 21-00796-CF, In The Circuit Court of the Sixth Judicial Circuit of the State Of Florida in and for Pinellas County. Warrant, entered January 25 2021.

Stephen Lynch Murray vs. Phil Archer, et al, Civil Action No. 2:21-cv-14355-JEM, U.S. District Court for the Southern District of Florida. No order entered.

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ARGUMENTS CITED

PETITION FOR A WRIT OF CERTIORARI

Petitioner Stephen Lynch Murray respectfully petitions for a writ of certiorari to the District Court of Appeal, Fourth District, State of Florida.

DECISIONS BELOW

The Florida Fourth District Court of Appeal's order affirming the order of the Circuit Court granting Respondents' motion to dismiss with prejudice is on file for 4D21-2586 December 9, 2021, and is reproduced at Appendix A, page 1a.

The order of the Circuit Court of the 19th Judicial Circuit, Okeechobee County, Florida, granting Respondents' motion to dismiss with prejudice is on file for 21-CA-000035-CAAXMX August 27, 2021, and reproduced at Appendix B, page 2a.

The Florida Fourth District Court of Appeal's order denying Petitioner's motion for rehearing en banc and/or clarification and written opinion, is on file for 4D21-2586 January 10, 2022, and is reproduced at Appendix C, page 15a.

The Supreme Court of Florida's order administratively dismissing Petitioner's petition to invoke the discretionary jurisdiction of the Supreme Court of Florida, is on file for SC22-81 January 19, 2022, and is reproduced at Appendix D, page 16a.

JURISDICTION

The Florida Fourth District Court of Appeal's order denying Petitioner's motion for rehearing en banc and/or clarification and written opinion was denied on January 10, 2022, and is reproduced in Appendix C, page 15a. The Court's jurisdiction is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL & STATUTORY PROVISIONS

The First Amendment; and Florida Statute 784.048(1)(d)

> *"Cyberstalk" means: 1. To engage in a course of conduct to communicate, or to cause to be communicated, directly or indirectly, words, images, or language by or through the use of electronic mail or electronic communication, directed at or pertaining to a specific person... causing substantial emotional distress to that person and serving no legitimate purpose...*

are set out in Appendix E, page 18a.

STATEMENT OF THE CASE

I. SUMMARY

On January 24, 2021, Petitioner drove to the nearest law school he could find on the map, posted political fliers outside the campus promoting a website "cops2prison.org", and drove home. The next day Petitioner was arrested. They held Petitioner for five months and tried to coerce him to take down his web material. When the government was faced with the fact they hated Petitioner's website but had nothing to charge him with, they arranged for someone to defame Petitioner as a the common definition of "stalker".

Petitioner sought recourse in civil court, based on the defamation being false and malicious, and in fact produced without witness or discovery, and even relying on perjury in the affidavit. But the court gave special favor to such defamation arranged by government to attack a private citizen in the criminal process. It wasn't that they were wrong about whether it was false or malicious. It's that they thought it was fair to call political speech stalking for the simple reason that a cop wrote that word. So the government, through the hand of a cop, used case law to manufacture a way to classify political speech as a crime, and produce a punishment for petitioning the government with grievances.

There is no ambiguity this was the government selecting someone for punishment in civil court. Suppose Respondents had broadcast the headline "Private Citizen Laughed At for Stalking Chris Sprowls' Wife. Joe Sixpack, a local police officer who was off duty at the time, reports that he saw Petitioner driving today, to stalk Shannon Sprowls, the wife the Speaker of the Legislature and friend of President Trump. Joe said he laughed at Petitioner, one can reasonably conclude because he knows what a perverted horndog Petitioner is for another man's wife." The civil court would have said what is this crazy thing? Did you just make this up?

But suppose Respondents broadcast "Private Citizen Arrested for Stalking Chris Sprowls' Wife. A local police officer saw Petitioner driving today, to stalk

Shannon Sprowls, the wife the Speaker of the Legislature and friend of President Trump. A judge arrested Petitioner, one can reasonably conclude because he feared Petitioner was a danger to the safety of the Speaker's wife." So it is not defamation in Florida, if the government says it. But there is no tradition in the United States that the government is less corruptible and the common citizen more dangerous, in defamation.

And there is a tradition that the government can't punish political speech. The government can't claim to arrest Petitioner for political speech, or punish him for it. And a web promoter can't falsely and maliciously defame Petitioner for clicks, without the government. So if the government arrests Petitioner for political speech, and then claims they are arresting him for stalking, it will never hold up in criminal court. But the web promoter is then allowed to punish Petitioner for political speech with defamation because the government said it. So the government can punish political speech by creating the opportunity for a non-government actor to do it, and then protecting the punishment. Private citizens have a right to attack political speakers, government has a right to lie, together they can punish speech.

II. FACTS AND CASE HISTORY

On January 24, 2021. Petitioner drove over the largest bridge in Florida, and posted political fliers outside the campus of Stetson University promoting a website “cops2prison.org”. The website details

objections to the State of Florida structurally rewarding police perjury to round up undesirables, and letting dangerous felons out of prison as a reward for lying in court to take the lives of innocents. The website also proposes an independent SEC-like institution at the state level, to compel reporting, and investigate cops and prosecutors proactively.

During this time Petitioner was stalked by law enforcement, stated by them to be in response to Petitioner sending thousands of emails to politicians. Petitioner also linked web pages all over social media, documenting the crimes of a prosecutor Phil Archer and some cops in his jurisdiction. These grievance communications covered many political topics and events, and included sharp and appropriately-toned criticisms of Florida officials and Republican political figures. No Florida official has ever disputed or responded to Petitioner's grievances, but only practiced omerta and retaliation. These slimy elected officials are a joke, and it is fair to use the tone used in common discourse between common citizens, to address them.

The day Petitioner posted the fliers outside the law school, a Pinellas County deputy used the opportunity of Petitioner unknowingly entering his jurisdiction, to swear a false affidavit referring to a novel “Cyberstalk” statute, and arrest Petitioner the next day. A Pinellas deputy uttered a fake bond condition that Petitioner was “to have no social media” (see Appendix F page 22a), and tried to get

Petitioner to confess in custody to owning the website “cops2prison.org”.

Petitioner's laptop, in which he documented the crimes of police and prosecutors, was seized. Under political influence, the prosecutor broke the Florida Rules of Criminal procedure to hold Petitioner on bond for five months without a charge, during which Petitioner was pressured to stipulate to not send emails to his elected representatives. Petitioner was never charged with a crime, presumably because the affidavit was some combination of perjury, misleading statements, and political speech, and was objectively ridiculous on its face. It accused Petitioner of the crime of driving over the largest bridge in Florida, and in separate events weeks apart and different topics, posting Bible quotes on Twitter, and linking a youtube video, in a private email to an unrelated person on the other side of the state, as commentary during the January 6th election dispute.

In a bid to defame Petitioner, police fed the perjurious affidavit to local media contacts, which pattern is recognized to be as common as rain in Florida, where web promoters depend on government officials for free local gossip which they can publish with immunity. (Petitioner later characterized their quid pro quo in his complaint as “collusive”, and was prepared to support with discovery, his claims of the close relationship between Pinellas police and Respondents.)

Respondents wrote an Article, which is advertised and delivered over and over on search engines to this day, referring to the day Petitioner drove to the nearest university to post political fliers with the headline “Okeechobee man arrested for stalking Chris Sprowls’ wife”. Petitioner swore to Respondents that their Article was false and defamatory, because the arrest affidavit contained statements which Petitioner swore were false, and because their Article contained statements that were false and embellished and not even based on any official statements. Respondents responded with malice and threat, as well as boasting knowledge that the courts would be biased in favor of political VIP's over private citizens (see Appendix I page 34a).

All the facts stated here were available to Respondents, in the official record which they claimed to rely upon, on Petitioner's website which they referred to, in Petitioner's statements to them, and from the cops who had been stalking Petitioner, whom Respondents spoke directly with to get their story. Petitioner argued and provided evidence his activities were political speech, and was prepared to provide any additional documentation necessary or requested, and all discovery the courts would allow. But the burden is of course on police and web promoters to use restraint in the vicinity of Petitioner's First Amendment rights, to prove something is not political speech before they say it isn't, and attack it with false and malicious defamation. Unless they believe they are immune and just don't care.

Petitioner filed a civil complaint in circuit court, but did not serve Respondents for five months, while attempting and failing to get any criminal discovery. Respondents filed a motion to dismiss with prejudice, citing their Article was legally sufficiently true, Petitioner had not given them five days to correct it (Florida Statute 770.01), they corrected the false and defamatory statements (not true), and simultaneously that Petitioner had taken too long to serve them (even though they had not properly filed any responses). Respondents provided the circuit court with a proposed order to dismiss Petitioners complaint with prejudice, which the court signed, and the district court of appeal then affirmed per curiam.

Petitioner's civil complaint documented thoroughly that Petitioner was posting political fliers, when Respondents said Petitioner was "stalking Chris Sprowls' wife". The documentation included receipts, photographs, emails, text messages, and even the IP address, phone model, search app, and physical description, of a Stetson University security guard who saw Petitioner's fliers and then visited the website from the flier. Petitioner also offered evidence and argument that law enforcement knew where Petitioner was and what Petitioner was really doing, not "stalking Chris Sprowls' wife". Petitioner made it clear at hearing and on appeal, that the emails Respondents claimed to rely on were political speech unrelated to "Chris Sprowls' wife".

The order signed by the circuit court contained objectively false statements, and seemed to elevate perjury and abuse of discretion, but that was not material or at least not critical to the outcome. The outcome turned on an error by the court in construing Petitioner's First Amendment protections as irrelevant. The outcome used the true parts of the affidavit, Petitioner did send private emails to an elected official on a topic and in a context having nothing to do with the purported crime victim (at a time when Petitioner was not even aware the purported crime victim existed). These First Amendment activities were never discovered or examined, and were simply labeled stalking of an unrelated and unknown person by the circuit court, on the legal basis the cops who arrested Petitioner said so.

Petitioner requested written opinion and clarification, because Petitioner could not believe the appeals court would again classify instances of political speech as stalking and protect an attack on it. But Petitioner was denied, and was therefore denied jurisdiction of the Supreme Court of Florida. It wasn't that they were wrong about whether it was false or malicious. It's that they thought it was fair to call instances of political speech stalking without discovery or examination, for the simple reason that a cop wrote that word. They thought it didn't matter, being wrong was irrelevant, perjury was irrelevant, embellishments were irrelevant, defamation was irrelevant. So the government, through the hand of a cop, used case law to manufacture a way to classify

political speech as a crime needing nothing more than a pen, and produce a punishment and deterrent for petitioning the government with grievances, with no remedy.

The judge that signed the arrest warrant (probably under political influence) was silent as to whether he judged specific speech instances, such as an earlier and unconnected private email to an unrelated official on the other side of the state about January 6th, to be criminal. And the affidavit and signed warrant were ambiguous as to what the crime might be, to the point where no charge could be pursued and certainly not as a favor to Petitioner. It was only in civil court, that the judgment relied on classifying every item of Petitioner's political speech as comprising a crime or probable cause for arrest, creating legal support for the defamation.

The civil defense attorney took the novel position which the trial court signed, that this was not a scam consisting of suspect affidavit which could never be pursued, or which included some protected speech, but rather that all Petitioner's various unrelated acts of political speech did fall under the definition of illegal stalking of a person at a different location under Florida law. For Respondents' headline and sub-headline to be substantially true, relied on an explicit argument by Respondents which was accepted by the circuit court without discovery, that every item of Petitioner's political speech was part of a criminal stalking act.

Nowhere in civil court did they argue or sign that Petitioner actually approached the purported crime victim with stealth as represented by the Article, or that the purported crime victim was even a witness. It was argued and judged the entire thing was based on political speech. Petitioner separately privately writing an elected official on one side of the state about the events of January 6th, and in an unrelated unadvertised act weeks later driving over a bridge on the other side of the state to post political fliers, were judged to be arrestable acts, for the purpose of triggering a series of rulings and rights pursuant to Florida law and case law.

They were able to take this extra step, in part by shielding the perjury and misleading statements in the affidavit, from the discovery which would have been required in criminal court. But the ruling was not based on an error about facts. It flowed from an explicit classification of specific instances of political speech as criminal stalking, by a cop.

Long story short, when the government was faced with the fact they hated Petitioner and his website but had nothing to charge him with, they arranged for someone to defame Petitioner as a the common definition of "stalker" and then protected that person, as a legal consequence of Petitioner petitioning his government with grievances. And big surprise, this was not done to protect Petitioner's ex-girlfriend, or anyone Petitioner had ever met in person or expected to or anything like that. It was done on behalf of the same distant elected officials

toward whom Petitioner's political grievances were directed, exactly as must have been expected when they wrote the First Amendment. The civil case law and law affirmed in this case abridge Petitioner's right to petition his government with grievances.

III. FEDERAL ISSUES RAISED IN STATE COURT

Petitioner's civil defamation complaint contained ample irrefutable evidence and arguments that Petitioner was posting political fliers not stalking, that Petitioner was arrested because officials didn't like Petitioner's nonstop grievance speech including "cops2prison.org", and that this was just a scam where cops collude with a web promoter to maliciously defame Petitioner with immunity (see Appendix L pages 40a, 45a, 58a). At first, Petitioner misunderstood that other parties didn't realize what the truth was. But Petitioner eventually realized other parties knew exactly what was going on, this is simply legal in Florida, even for elected officials to attack political speech directed at them.

On appeal, Petitioner made clear that his activities which police did not like were petitioning the government with grievances, not stalking. Petitioner argued this was an extension of the criminal process to attack political speech, and without discovery to support any of it. Petitioner made clear that he was being punished for political speech in a collusive arrangement to use an immunized non-government actor in a novel and destructive non-journalistic activity, which did not merit traditional First

Amendment Protections (see Appendix M pages 64a, 66a, 70a, 75a).

Respondents' appeal answer again classified Petitioner's private political speech to an unrelated person as threats to Shannon Sprowls. Petitioner made clear in his reply that these were federal issues, including the following statements:

> *"Appellees seem stuck on an email to an elected official Phil Archer mentioning an elected official Tyler Sirois, as a legal justification to broadcast reckless and malicious lies about Appellant. This is in fact a collusion with elected officials to deprive Appellant of his First Amendment rights. Any law or case law which would support this activity cannot be constitutional."*
> *- Appendix N page 77a*

> *"The asserted legal theory, that Appellant engaging in political speech to and about unrelated government officials, subjects Appellant to false attacks and extreme defamation with immunity, is a direct attack on Plaintiff's right to petition his government for a redress of grievances. It is done, as claimed in Appellant's Complaint, in a collusive arrangement with the elected officials who are the subjects of Appellant's speech."- Appendix N page 79a*

After Petitioner's appeal was denied, Petitioner told

the appeals court in his motion for rehearing, that they had affirmed a loophole for elected officials to attack political speech, with broad destructive consequences (see Appendix O page 83a). Petitioner asked the appeals court to judge and write whether the cops were motivated by dislike of Petitioner's website. Petitioner asked the appeals court to clarify with a written opinion, whether they thought sending emails to elected official Phil Archer, or posting fliers, were protected First Amendment activities. Petitioner asked the appeals court to clarify if they still thought perjury and defamation and every other trick is valid, when used for the specific purpose to attack and erode First Amendment rights. The appeals court affirmed by silence without witness or discovery and relying on perjury, that plain political speech was stalking, and punished it, construing Petitioner's right to petition his government for a redress of grievances irrelevant and void without due process. Whomever the executive branch paints a target on is fair game.

ARGUMENTS

IV. ISSUES OF BROAD CONSTITUTIONAL IMPORTANCE

"The citizens have the right to petition the king without fear of repercussions."
- Declaration of Right, English Parliament, 1689

The intervention of state courts to dismiss Petitioner's complaint without a jury trial, establishes a loophole for government actors to attack Constitutional rights, by affirming individually insulated legal elements assembled in a chain, with that end as the sum. Like in "Whole Woman's Health v. Jackson", it deputizes private citizens to do something not permitted to government actors, and then protects and bolsters the private citizens acting as agent, in a selective set of circumstances contrived by government. It affirms the discretion of state judges to determine First Amendment speech and construe rights without witness or discovery, clarification, or articulated standard, prioritizing government interests over sworn statements of private citizens, and in this case using perjury.

It expressly declares valid Florida statute and case law which limit a citizen's recourse for attacks on his First Amendment rights, which attacks take the form of false and malicious defamation originating with and protected by state officers. State officers such as legislators and prosecutors can, through political influence and abuse of discretion, violate or permit the violation of such legal rules as Florida Statute 837.02 (perjury) and Florida Rule of Criminal Procedure 3.134 (bond without charge after 30 days) to create an attack on First Amendment rights, and insulate it from Florida courts. Case law applied and produced in this case specifically endows Florida police and judges with the right to defame citizens without limitation, and even using perjury,

as an attack on political speech. And it strips private citizens of ordinary and traditional protections to that end, to expose them to attacks originating in the executive branch, and amplify those attacks.

In related case 2:21-cv-14355 Southern District of Florida, state officers who originated this defamation asserted immunity and privilege to do so in their official roles, which statements support jurisdiction of the Court. In that case (ECF 36, p.2), the Florida Attorney General argued that (see Appendix K page 37a):

> *[Petitioner Murray] addresses the Eleventh Amendment bar by stating that the "constitutional powers of the Governor of Florida, do not include ordering police to detain someone admittedly without probable cause and under false pretense, to threaten that person not to make political speech." (ECF 22, p.7) There is no supporting authority behind this statement.*

These are issues of Constitutional rights, where the lower court has construed them as fair to be ignored, in a novel scheme of state officers using various tricks and statutes to circumvent them, such as fixing a match between private citizens to achieve the outcome preferred by government.

Petitioner quotes Justice Kagan in "Whole Woman's Health v. Jackson" that a court cannot abdicate its

jurisdiction by saying "oh, we've never seen this before, so we can't do anything about it". Petitioner quotes Justice Marshall:

> *"If the legislatures of the several states may at will annul the judgments of the courts of the United States, and destroy rights acquired under those judgments, the Constitution itself becomes a solemn mockery, and the Nation is deprived of the means of enforcing its laws by the instrumentality of its own tribunals." United States v. Peters, 5 Cranch 115, 136 (1809)*

Petitioner cannot certify, but pleads on behalf of millions of common citizens, that these are issues of great importance. They manifest in a system for depriving private individuals of reputation and opportunity without due process at the hand of government, which is applied on a mass scale to incite the mobs.

V. A SCHEME TO ABRIDGE THE FIRST AMENDMENT

The powerful, through the courts, defined Petitioner's speech as a crime without due process, and selectively enveloped a private speaker in a shield against ordinary recourse for defamation. At that moment, agents of government and conduits of political forces created and affirmed an arrangement to circumvent the First Amendment comprised of:

1) Police deprive citizens of reputation and opportunity using the stroke of a pen (and as a practical matter with no penalty but rather a political reward and incentive for perjury).

2) Police can do it regardless of probable cause, particularly on behalf of elected officials who can overlook perjury and hold influence over the discretion of judges (in this case they insulated the perjury by not providing discovery, and then broke Florida Rules of Criminal Procedure to keep defendant on bond while politically pressuring his lawyer).

3) They can then amplify that deprivation by deputizing publishers to defame their target, by dismissing ordinary defenses against defamation, and using civil courts to give favor to government actors, propaganda, and attacks on citizens, over citizen speech and truth.

4) They can do all this without any witness, and refusing demands for discovery and even public records to document what they have done, and even if there is no charge and a judge or prosecutor determines there was not originally sufficient probable cause.

5) They can do it to attack and retaliate for political speech, by delegating retaliation for political speech to malicious web bandits as agents of government.

6) As a practical matter, no appeal can cure such an attack on political speech, when the cost of the appeal in time and money renders its availability irrelevant to a person immediately so deprived of his First Amendment rights, and with political resistance at every step in state courts often appointed by the attackers.

There is a similar case before the US District Court for the Northern District of Florida 4:21-cv-00191-MW-MAF. In that case, Florida's new anti-riot statute 870.01(2) was judged too vague (ECF 137 p.71) because it could result in someone being arrested for peaceful protest, if an unrelated person at a different location broke a window. Petitioner's described scheme for the present case is more egregious. Because when the rubber meets the road in real-world enforcement, the present scheme allows the same protester to be arrested and punished for prostitution, even if no other protester broke any law.

A cop could say "I was observing the peaceful protest, when I noticed the subject standing on the sidewalk. I recognized the subject as someone I had previously seen getting into cars of strangers on the same street, so I arrested the subject for prostitution." Of course this would be a lie. And a person so arrested could seek recourse in Florida civil court, with poor prospects given how lying police are protected.

But it would go onto the Internet that a person out protesting something like police lying was "arrested

for prostitution". This is not unrealistic, Petitioner knows someone whose career was ruined because he was falsely accused of "aggravated assault on a police officer", after he drove his car in a way a meter maid did not like. In real life, a protester can just as easily be falsely accused by a police officer of aggravated assault, as breaking the riot law.

The problem in such a case would not be that the prostitution statute is too vague. The problem would be that Florida police and government officials turn to defamation to bolster their attacks and when other attacks fail, because there is no recourse. A person who subjects himself to being known as a prostitute for the rest of his life, because he engages in political speech which a cop finds "toxic" (which Pinellas County Sheriff called Petitioner's speech in 2:21-cv-14355 see Appendix J page 36a), has had his right to petition his government with grievances abridged. There must be a recourse to remedy it.

In 4:21-cv-00191-MW-MAF Judge walker mentioned two girls who were arrested for inciting a riot for sitting in a bus seat (ECF 137 p.1). The problem is not in statute text but in enforcement and redress. The present civil law and case law in Florida, is designed to prevent redress. Florida voters may wish to punish problem citizens with false and malicious defamation. But their impulses conflict with the federal constitution and must be limited, when Petitioner drives over a bridge to post political fliers, does so, and returns home, in evidence.

VI. STATE OFFICERS AND CONSTITUTIONAL TRADITIONS

> *"were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter."*
> *- Thomas Jefferson, letter to Col. Edward Carrington, Jan. 16, 1787*

> *"The press has no duty to go behind statements made at official proceedings and determine their accuracy before releasing them."*
> *Ortega v. Post-Newsweek Stations, Florida, Inc. 510 So. 2d 972 (Fla. 3d DCA 1987)*

Depriving Petitioner of ordinary protections against false and malicious defamation in this special circumstance contrived by government, upends the traditions which have conserved our Republic. Our legal and cultural traditions hold that grievances to the government are the most protected form of speech, because they cannot practically be regulated by the same government toward which grievances are directed, whose political survival incentive may be in proportion to abusing rather than protecting such speech.

The least protected speech is that directed toward the false and malicious defamation of private citizens, which advances no useful value, but only sows social conflict. More egregious when such

speech, designed to incite neighbor against neighbor, originates with government, for the glorification of government at the expense of common citizens. Most egregious when such speech originates in government and takes the form of an attack on the right to petition that very same government.

The least protected speech, cannot be protected at the expense of the most protected speech. The government is infinitely more dangerous than the individual. A private individual with the worst intentions, cannot compete against a government official with the best intentions, in damage by speech. The purpose of our way of life is to censor the actions of the powerful. The First Amendment flows uphill, from the less powerful to the more powerful, to counterbalance the natural difference in rights flowing in the opposite direction.

The Founders did not imagine they needed to protect specific rights of the powerful, from less powerful individuals. It was not imagined that rulers would want to grieve about individuals, but that the individuals would stop them. It is inconceivable that the anti-federalists imagined private individuals would stop police and government officials attacking and slandering them, unless the Constitution guaranteed police and government officials that explicit right.

Respondents didn't faithfully report the actions of government. They didn't even faithfully recite the statements of government. They simply were handed

license to go hog wild defaming anyone whom the government picks. That's fine, but not when it is created and protected by a cop who lied because he doesn't like "cops2prison.org" fliers.

VII. FIRST AMENDMENT, INCITEMENT, AND SELF PRESERVATION

Self preservation was a matter worthy of contemplation for Ben Franklin outside the Constitutional Convention and has often weighed in interpretations of First Amendment rights. Limits of the First Amendment have long included speech that incites rather than grieves, such as "shouting fire in a theatre and causing a panic" from "Schenck v. United States", or "Advocating overthrow of Government" under the Smith Act.

What may seem insignificant in individual attacks such as the present defamation of Petitioner, when applied on a mass scale over time, amounts to speech that does not serve the purpose of truth or grievance, but incitement of citizen against citizen. Saying Petitioner drove to Pinellas to stalk someone when Petitioner did not, and saying similar things about enough people for a long enough time, cultivates social unrest and conflict.

Antisemitism and privation existed throughout history. It was only through the advent of new broadcast technology, that Hitler was able to overcome whatever baffles existed to diffuse such

factors, and amplify them into tribal war. Justice Holmes said:

> *"In many places and in ordinary times, the defendants, in saying all that was said in the circular, would have been within their constitutional rights. But the character of every act depends upon the circumstances in which it is done."*
> *Schenck v. United States, 249 U.S. 47 (1918)*

Does the Internet create such a new circumstance, a moment in history? Can falsely accusing someone of a crime, if it is blown up and broadcast and recited enough times using the new Internet medium as an amplifier, become inciting and inflammatory, in a proportion that exceeds any merits within the values of the First Amendment?

The present ruling construes the First Amendment in a way that defies broad historical tradition, when it elevates mass inciteful speech by government against an individual, over private non-inciteful speech by an individual against government. And it specifically affirms the use of the former to cancel the latter. The government through mass media has millions of agents available. And so the slightest incitement by government is not just a threat, but an attack with effect, and without due process.

Hatred of fellow citizens is amplified day and night for clicks for cash on the Internet. Defaming the accused to monetize the bloodlust of mobs has

created literal factional war in the streets. To construe such considerations as irrelevant, is to become party to a suicide pact.

VIII. A HIERARCHY AND CONFLICT OF RIGHTS

Members of the Court must be aware of gossip originating with government affecting the outcome of criminal trials. This includes witnesses reciting items from the news to convict innocents, jurors considering items from the Internet which defendants have no opportunity to confront - hearsay masquerading as real evidence which the state has an incentive to facilitate - and even police conveniently overlooking evidence which could cost the reputation of their department and their own jobs, if such discoveries would contradict the official narrative that has been presented to news media.

Depriving someone in advance of a trial with defamatory embellishments on the Internet, forces him to either give up his privacy and right to remain silent by publicly pushing back on the lies to mitigate their impact, or give up his reputation and opportunity and ordinary recourse for defamation - and even his right to a fair trial - without due process. It chills and therefore infringes the rights of the accused. The social costs of this are great. It manufactures an expanding population of aggrieved citizens who distrust courts and media, and hate their neighbors and their country.

Rights in criminal justice comprise a plurality of the

Bill of Rights. The right of some clown on the web to make 10 cents defaming a private citizen with unsubstantiated nonsense, and the right of government actors to defame targets of their aggression, are nothing compared to the rights of private individuals to fair and honest criminal justice outcomes.

Decisions of courts seem designed with a political agenda, to bolster the state in criminal justice with accessories that intentionally undermine individual rights. If a set of rules improves state odds in prosecution outcomes, and increases or amplifies the impact of prosecutions, it affects and involves the rights in the Bill of Rights. These are not theoretical considerations, but real and hard outcomes. It is an error to construe constitutional rights in criminal justice as irrelevant, when considering laws and rulings that interact with those rights.

IX. CONCLUSION

Wherefore, Petitioner Stephen Murray respectfully submits that this Court has jurisdiction and mandate to address this matter of great importance to many members of the public, defining the powers of state officials and state laws, which conflict with and construe as irrelevant and annul, sacred rights under the federal Constitution and in our way of life.

Respectfully submitted January 26, 2022

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(Appendix Published Separately)