

**Petitioner**

*Writ of Habeas Corpus § 2241/Alternative Writs 28 §1651  
Injunctions; Three-Judge Courts 2284  
(DEMAND FOR THREE JUDGE PANEL)*

V

Government Accountability Board  
Kevin J. Kennedy  
Diane Lowe

**Respondents**

U.S. DISTRICT COURT  
EASTERN DISTRICT-WI  
FILED  
200 JUL 22 P 1:30  
JON W. SANFILIPPO  
CLERK

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**PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241  
FOR PERSONS (LIBERTY) IN CUSTODY/ALTERNATIVE WRIT**

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Petition for Writ of Habeas Corpus

Citation References

Procedural History

Authority:

United States Bill of Rights

Universal Declaration of Human Rights, Article 19 (multilateral treaty adopted by the United Nations General Assembly)

International Convention on Civil and Political Rights (multilateral treaty adopted by the United Nations General Assembly)

Convention on all Forms of Discrimination against Women (multilateral treaty adopted by the United Nations General Assembly)

18 USC § 3232 (regarding offenses committed against the laws of the United States)

28 USC § 2201 (regarding creations of remedies and declarations of rights)

Article I Section 19 (relevant provisions of the limits of the state)

First Amendment to the United States Constitution

Hensley v Municipal Court; 411 U.S. 345 (1973)

Jones v Cunningham; 371 U.S. 236 (1963)

Miller v Fenton, 474 U.S. 104 (1985)

28 U.S.C. § 1651(2)

28 U.S.C. § 1657

**NATURE OF PETITION**

and or regulations. A prior petition for habeas corpus relief has not been filed on behalf of one of the petitioner. The petitioner submits this application for writ of habeas corpus pursuant to section 28 U.S.C. section 2241. Section 2241 petition cannot be deemed successive. '[t]he Writ is the fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action.' Harris v. Nelson, 394 U.S. 286, 290-91 (1969). "Therefore, the writ must be "administered with the initiative and flexibility essential to insure that miscarriages of justice within its reach are surfaced and corrected." Harris, 394 U.S. at 291. Judicial review of administrative action becomes a matter of constitutional necessity in some situations. See **Estep v United States, 327 US 114**. There is a general federal question that invokes jurisdiction. The petitioner is requesting that the applicability of the respondent's action new rule making and infringement upon a federally protected right and exercise of activity be temporarily enjoined (via injunction) as the validity of the regulation is challenged as unconstitutional. Interpretative rules unlike legislative rules enjoy no presumption of validity. (Citation omitted). All the inherent powers of the courts are available for the proper and complete exercise of the court's statutory jurisdiction to enforce compliance with a regulation & enjoin its violation; and where the public's interest is involved in a proceeding of such nature such equitable powers assume an even broader and more flexible character. See **Pote v Waner Holding; 328 US 395**

#### FACTUAL INFORMATION

The Government Accountability Board is a state agency, not under Article III judicial power, all made all white retired Article I judges (for the record). It also is submembered w/ respondents Kevin J. Kennedy, & Diane Lowe.

State of Wisconsin. (United States Supreme Court has recognized the difference of the lower and upper case citizen.

2. The Petitioner is a legislative candidate for the 10<sup>th</sup> District Representative to the Assembly.
3. The petitioner is running as an Independent and campaign committee is entitled 'The Poor People's Piece of the Pie Campaign'.
4. Pursuant to the legislation of the State of Wisconsin, specifically § 8.20(2)(c) states the principles represented, if any, must be in 5 words or less.
5. The Petitioner's statement of principle is 5 words or less; NOT the "whiteman's bitch"
6. Without legislative authority the respondents became personally embroiled in the open election process and acted outside his/her/their authority and restricted and infringed on the constitutional rights of the petitioner thereby taking into unlawful custody the liberty interest of the petitioner and has detained and retained such liberty contrary to federal law clearly established. Due process requires that a party be afforded reasonable notice before a liberty or property interest may be affected by the action of an administrative agency, and the failure to give notice constitutes a jurisdictional defect. Due process dictates that an administrative hearing be conducted and decided in a fair and impartial manner. A fair hearing before an administrative agency includes the opportunity to be heard, the right to cross examine adverse witnesses and impartiality in ruling upon evidence.

7. The respondents did not have no do the respondents have subject matter jurisdiction over the petitioner or her unlawfully restrained and or unlawfully detained liberty. An agency cannot enlarge its own jurisdiction nor can jurisdiction be inferred upon the agency by parties before it; no can it be upheld by agreement, contact or consent of parties. No can thee be made an effective waiver or estoppel. See **A/S Ivarans Rederi v United States, 283 US App DC 19.**
8. The respondents did not and do not have probable cause or a warrant and was not brought immediately before a magistrate for a judicial determination of probable cause in reference to this unlawful detention and or retention of her protected liberty. The respondents are enforcing an act in a discriminatory manner. It is well established that a provision not objectionable on its face may be adjudged unconstitutional because its effect in operation. See 16A Am Jur 2d, Constitutional Law §§ 226, 802. Whee it is not possible to separate the part that which is constitutional from that which is unconstitutional, the whole statute falls. See 16 Am Jur 2d Constitutional Law § 260.
9. The Petitioner did not receive no was there any complaint against the Petitioner filed with the respondents contrary to their own internal procedure to obtain jurisdiction over the petitioner. See Government Accountability Administrative Procedure Rule 2.11

right and or interest. All rule making authority delegated to administrative agencies is limited and defined by the statute conferring the power. The respondents did not have valid statutory authority and under the “guise” of regulation , it without lawful authority substituted its judgment for that of the legislature. An agency may not promulgate a regulation that adds a requirement that does not exist under the statute. It cannot create, remove or limit substantive rights. The “Regulatory Flexibility Act” requires that each agency publish a regulatory agenda and a regulatory flexibility analysis, showing the effect of a proposed rule on small businesses, organizations and governmental operations. See 5 USCS §§ 603-608. The 1961 version of the Model State Administrative Procedure Act defines “rule” as each agency statement of general applicability that implements, interprets, o prescribes law o policy or describes the organization, procedure, or practice requirements of an agency. According to the 1981 version of the Model; a rule is the whole o pat of an agency statement of general applicability that implements, interprets, or prescribes (1) law or policy, or (2) the organization, procedure, or practiced requirements of an agency. A legislative rule is issued by an agency pursuant to statutory authority or statutory direction subject to limitations and procedural requirements imposed by Congress. **See Chrysler Cop v Brown., 441 US 281.** The respondents’ decision does not have the force and effect of law as it was not and has not been promulgated in accordance with a legislative delegation. According to the 1981 version of the

administrative bulletin with respect to the rule or proceeding upon which the rule was based (3) all written petitions, requests, submissions, and comments received by the agency and all written materials considered by the agency in connection with the formulation, proposal, or adoption of the rule or proceeding upon which the rule is based; (4) any official transcripts of oral presentation made in the proceeding upon which the rule is based (5) a copy of the regulatory analysis prepared for the proceeding upon which the rule is based (6) a copy of the filed rule and explanatory statement (7) all petitions or exceptions to amendments, repels or suspension of the rule (8) a copy of any filed request (9) a copy of any objection to the rule filed by the administrative rules review committee and the agency's response (10) a copy of any filed executive order with respect to the rule.

11. The respondents regulation is not consistent with the statutory authority by which they are authorized it has impaired its scope and is thereby invalid and void. See *Peters v Hobby*, 349 US 331.
12. The actions of the respondents were not a result of an ordinary hearing and were not in compliance with federal law, statutes, and treaties and or regulations nor were they in compliance with their own state laws and procedures, specifically the 1981 revised Model State Administrative Procedure Act.
13. The petitioner's liberty is in immediate and imminent harm and danger.
14. The above entails serious violations of federal law, treaties and regulations.

the petitioner to their attorney. The attorney refuses to give petitioner proper and rightful documentation requested. No order no complaint has been given to the petitioner and the staff member had the audacity to insinuate a Black male was the aggrieved person when the fact is a staff member name Diane, a Caucasian American woman clearly stated her dislike of the statement of principle and without lawful authority participating in a quasi-judicial capacity to infringe on and unlawfully detain and or retain the rightful liberty of the petitioner. Furthermore, the right to petition this Court is not supplemental to state remedial processes. Where a state action is based on a federal claim, state laws do not control. (citation omitted.).

### **Controversy**

§ 8.20(2)(c), Wis. Stats only directs that the candidate's statement of principle should be in 5 words or less. There are no other provisions as it relates to the statement found under this statute. The petitioner has complied with the statutory requirement, as her statement of principle is '5 words or less'. A 'statement' is a verbal assertion or nonverbal conduct intended as an assertion; a formal and exact presentation of facts. See Black's Law Dictionary, 7<sup>th</sup> Edition. 'Principle' is defined as a general truth or law, a rule of personal conduct, moral standards collectively. See Standard Encyclopedic Dictionary, Funk & Wagnalls, © 1970. Furthermore, 'principle' has several different contexts; such as principle as cause, principle as law, principle as axiom or logical fundament, principle of identity, principle of contradiction, principle of sufficient reason, principle of philosophy, and so forth. The petitioner made a written assertion of fact that is a general truth of her personal conduct and moral standards collectively, constituting a 'statement'

article or adjective used to give distributive force; it is used specifically when reference is made to a particular person, thing or group. "Whiteman" is worded without spaces and is an ebonic phrase as it relates not to a person but an infrastructure or power. For example "Whiteman's World" by 2Pac Shakur. "The 'man', hot damn..." Lyrics from Michael Jackson's "Jam", both examples relate to an entity, and or power structure. White is also defined as 'pertaining to or controlled by power structure.' See Standard Encyclopedic Dictionary, Funk & Wagnalls, © 1970. "The Man" is a slang phrase that refers to the government, leaders of large corporations, and authority figures in general. The term also is colloquially defined as a figurative person who controls the world. See [http://en.wikipedia.org/wiki/The\\_Man](http://en.wikipedia.org/wiki/The_Man). The term 'bitch' is protected by the United States Supreme Court, as well as the 1<sup>st</sup> Amendment under the freedom of expression doctrine. Bitch can be defined as a female dog, a rollover, or a scandalous woman. See Standard Encyclopedic Dictionary, Funk & Wagnalls, © 1970. Political equality includes the right to freedom of expression freedom of political speech and freedom of the right to exchange ideas. Political liberty is of intrinsic importance. The United States Bill of Rights protects freedom of political speech pursuant to the First Amendment. The 7<sup>th</sup> circuit Court of Appeals, in **Swankv Smart**, 898 F. 2d 1247 (7<sup>th</sup> cir 1990) affirmed that "the purpose of the free speech clause is to protect the market in ideas, broadly understood s the public expression of ideas, narratives, concepts, imagery, opinions, scientific, political, or aesthetic, to an audience whom the speaker seeks to inform, edify or entertain.." To deny the petitioner the right to have her statement of principle on the



participate in political deliberation and decision-making. Legislation can make no law abridging this right and this agency does not have the authority to promulgate any rule making at its own discretion. The 'staff' decision amounts to unlawful censorship. It is contrary to the Supremacy Clause and violates international law, specifically **Article 13 of the American Convention on Human Rights**, as well as **Article 19 of the International Covenant on Civil and Political Rights**. The Supremacy Clause mandates that treaties have the same power of the United States Constitution. See Article VI of the United States Constitution. There are no racial slurs, and is of moral character. The United States Supreme Court held that even severely distressing speech is constitutionally protected. *See Hustler Magazine v Falwell*. A mere offensive view is not enough to justify chilling of 1<sup>st</sup> Amendment Constitutional rights. "Words which merely offend, disgrace, anger, or frustrate may not be prohibited in violation of one's right to freedom of speech". *See Ketchens v Reiner*, 194 Cal. App. 3d 470, 239 Cal. Rptr. 549. *See also Cantwell v Connecticut*, 310 U.S. 296, 304. The word "bitch" has received repeated protection of speech by the United States Supreme Court, *See Street v New York*, 394 U.S. 576. The petitioner, last, but not least state that the 'staff' that made the decision to omit from the ballot the Principle of Statement; NOT the "whiteman's bitch, did not and does not have the legislative authority to do such. There is no rule and or opinion in effect that regulates the Statement of Principle of an Independent Candidate, and as such, the decision of the 'staff' cannot be given the force of law. The decision was over-reaching, and arbitrary at the very minimum. The decision is "easily susceptible to

## **PROCEDURAL HISTORY & BACKGROUND**

1. State actors have falsely imprisoned the petitioner's liberty; in custody pursuant to orders and judgments of the respondent(s) that are contrary to the laws, treaties, statutes, rules and regulations of the United States of America.
2. The petitioners' liberty being in custody is invalid as measured by the United States Constitution.
3. The petitioner was exercising her federal rights when her liberty was removed from her without permission or consent.
4. The respondents did not and do not obtain personal or subject matter jurisdiction over the petitioner.
5. A habeas action usurps the attention and displaces the calendar of the judge who entertains it and receives prompt action within the four corners of the application.
6. The petitioners also employ the Writ to challenge the constitutionality of the respondents actions.
7. The Petitioner's liberty is being held for non-criminal acts.
8. The Petitioner is being denied her liberty rights pursuant to United States Bill of Rights, Universal Declaration of Human Rights, Article 19 (multilateral treaty adopted by the United Nations General Assembly), International Convention on Civil and Political Rights (multilateral treaty adopted by the United Nations General Assembly) Convention on all Forms of Discrimination against Women (multilateral treaty adopted by the United Nations General Assembly), First Amendment to the United States Constitution.

logic.

- 10.** The Petitioner has a strong showing in her favor of the claim of actual innocence.
- 11.** The respondent's actions are of process not proper in the regular conduct of the proceeding, with an objective that is not legitimate, a misuse of legal procedures, injurious to the Petitioner.
- 12.** The proceedings and results are resulting from the basis of unreasonable determinations of the facts and contrary to the mandates of Due Process.
- 13.** The proceedings are wholly without personal or subject matter jurisdiction over the petitioner, in violation of the Due Process Clause, the Ex Post Facto Clause, the Equal Protection Clause, and numerous other substantial unconstitutional violations listed infra.
- 14.** These violations are not merely technical, but serious violations of constitutional rights.
- 15.** The petitioner did not and has not received any full and fair fact hearing in the respondent's proceedings.
- 16.** There is an absence of available state corrective process.
- 17.** The respondent's proceedings are objectively unreasonable. The methods employed do not conform to the broad requirements of Due Process.
- 18.** The petitioner has offered sufficient evidence to indicate that the proceedings are objectively unreasonable in the light of clearly established constitutional rights.

20. The errors and violations of the laws of the United States are so fundamentally defected that it will inherently result in a fundamental miscarriage of justice.

### **Statement of Issues**

The events in the state proceedings have resulted in fundamental defects, which inherently result in a complete miscarriage of justice. The events resulted in decisions contrary to as well as unrealistically applicable to established federal law. The decisions were and are unrealistic determinations of the facts as will be shown in the record. Accordingly habeas relief should be granted under 28 U.S.C. section 2241, section 1331.

The procedures and process used in the state proceedings have been and are in violation of clearly established federal law. The events resulted in decisions contrary to as well as unrealistically applicable to established federal law. The decisions were and are unrealistic determinations of the facts as will be shown in the record. Accordingly, for all the foregoing reasons habeas relief should be granted under 28 U.S.C. section 2241, section 1331. The petitioner has a protected constitutional right to petition the government for a redress of grievances. The petitioner's grievances have not even been properly addressed, in order to be redressed. The petitioner has a constitutional right to the appearance of fairness as well as the actual act. The United States Supreme State Court ruled inn Sanders; 'conventional notions of finality of litigation have no place where life or liberty are at stake.' *Sanders 371 U.S. 1*. State rules cannot prevent constitutional issues from being heard. Belated liberation is little enough compensation. Please see, *Brecht v Abrahamson, 507 U.S. 619 (1993)*. The US Bill of Rights protects

speech...and the right of the people to peaceably assemble , and to petition the government for a redress of grievances....'Freedom of speech also includes the right of dissent and to speak the truth. Laws must exist and those laws should be obeyed by all, including government officials. Prohibition is an independent proceeding to correct or prevent judicial proceedings that lack jurisdiction or usurp jurisdiction or exceed jurisdiction authorized. Judicial power is not exercised for the purpose of giving will of the judge; always for the purpose of giving effect to the will of the legislature; or in other words, to the will of the law." See Littleton v Berbling, 468 F.2d 389 (7<sup>th</sup> cir). The petitioner has a vested right to have controversies decided in accordance to the constitution and has a vested interest in the right to have a court apply the proper construction and application of controlling law(s) and statutory provisions. . **Please See Dye v Hofbauer, 54 US 1 (2005).** This Court's immediate intervention is warranted in order to ensure that the rule of law is adhered to in this time of great national and global concern. The opinions rendered by the respondent are advisory and are not in conformity with the mandates of the United States Supreme Court, federal codes and regulations or customary international law nor the laws of the State in which the respondent(s) purported to act under. The Constitutional, civil and human rights involved go beyond the parties involved and is truly of public interest and concern. . The public policy that "we hold these truths to be self evident, that all men are created equal' applies to women as well. The idea that women don't matter and or have no legal recourses in which to call upon is contrary to the multi lateral treaties adopted by the United Nations General

Article 19. These treaties are 'jus cogens norms'. Under Article 53 of the Vienna Convention on the Laws of Treaties jus cogens norms are norms accepted and recognized by the international community of States, as a whole norm from which no derogation is permitted and can only be modified by a subsequent norm of general international law having the same character. Jus Congens Norms are binding in the United States. This controversy remains unresolved and the events that have transpired are against the laws, customs and proper proceedings of federal law, clearly established law and manifest damage and prejudice will occur if it remains uncorrected. The issues presented are of significant importance beyond the particular facts and parties involved.

### **PRAYER FOR RELIEF**

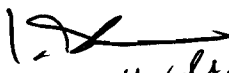
The petitioner's liberty is being oppressed, unlawfully detained and or retained and is in the unlawful custody by an unlawful assumption of judicial power. Remedy by review is inadequate to afford the petitioner or prohibition the relief for which she is entitled. The respondents' exercise of power is unauthorized by law and their continuation to exercise such unauthorized power is resulting and if not corrected will continue to result in irreparable and substantial injury in which there is no other adequate remedy. The respondents have a positive and plain duty to adhere to the rulings and mandates of the United States Supreme Court as well as the United States Constitution and the State of Wisconsin Constitution. Because the respondents refuse to follow the law and make unilateral decisions against the petitioner not in accordance with Due Process of law a

Wherefore, for the reasons stated above and in the authorities cited under clearly established law, the petitioner respectfully prays that the Honorable Court grant the following relief;

1. Release the petitioner's liberty from the unconstitutional custody detainment and restraint of the said respondents.
2. Release the petitioner's liberty from the unconstitutional custody detainment and restraint of the said respondents by restoring the liberty that has been unlawfully detained and or restrained.
3. Enjoin the respondents from any further unlawful restraintment and or detainment of said liberty
4. Declare the declaratory rights of the petitioner.
5. Enjoin respondents from further violating the Petitioner's Constitutional rights.
6. Declare any election that restrains and or detains the liberty of the petitioner void.
7. Any and all other remedies on behalf of the petitioner to effectuate justice pursuant to the rights and remedies afforded to the petitioner.

I verify that the petitioner with good faith put this writ together and that the foregoing is true and correct to the best of the petitioner's recollection and or knowledge as well as ability.

I. Griffin-petitioner, P.O. Box 72057 Milwaukee, Wisc 53233

  
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