

IN THE CIRCUIT COURT FOR THE THIRD JUDICIAL CIRCUIT  
MADISON COUNTY, ILLINOIS

Valdez-Lamont: Jordan,	)	
Petitioner,	)	
	)	
Vs.	)	Case No. 19-MR-135
	)	
DAVID A. HYLLA, RICHARD L. TORNARELLI,	)	<u>DAVID DUGAN</u>
NEIL T. SCHROEDER, MARK VON NIDA,	)	Presiding Judge
THOMAS D. GIBBONS, JAMES BUCKLEY, et. al.,	)	
Respondents.	)	

**MEMORANDUM FOR PETITION BEFORE SUIT TO IDENTIFY RESPONSIBLE PERSONS AND ENTITIES**

Now Comes Petitioner, I, Valdez-Lamont; Jordan, in propria persona, sui juris and pursuant to 735 ILCS 5/2-616 file this memorandum in support of my petition before suit to identify responsible persons and entities. In support thereof, I state as follows:

**I. INTRODUCTION**

I, Valdez-Lamont: Jordan, has served a Summons for Discovery and Depositions on Written Questions on DAVID A. HYLLA, RICHARD L. TOGNARELLI, AND NEIL T. SCHROEDER. The discovery is necessary in order to identify the responsible persons and entities that failed to protect my United States and Illinois Constitutional Rights to Procedural Due Process and Equal Protection of the Laws by allowing Rand S. Hale to continue practicing law once he lost the position as Special Defender in Madison County, Illinois and was removed from the ARDC's master roll of attorneys authorized to practice law in Illinois.

Rand S. Hale was appointed as Special Defender on my case no. 99-cf-2226 by the Third Judicial Circuit Court. The ARDC removed Mr.Hale's name from the master roll of attorneys authorized to practice law in Illinois on March 10, 2017. In response to the ARDC's investigation of Mr.Hale, he admits to the ARDC that he lost the position as Special Defender on March 10, 2017. Mr. Hale also admits to the ARDC that my case was the only active case he still represented.

## II. Argument

Reasonable inference exhibits that because Mr. Hale lost the position as Special Defender on March 10, 2017, that the person(s) or entities responsible for removing Mr. Hale from the Special Defender position on March 10, 2017 knew or should have known that Mr. Hale should not have been representing me during the evidentiary hearing proceeding held on May 22, 2017.

That because my case was the only active case Mr. Hale still represented after March 10, 2017, reasonable inference exhibit that Mr. Hale's other cases that he represented as Special Defender prior to March 10, 2017 were reassigned. That being so then the persons or entities responsible for reassigning Mr. Hale's case load on or after March 10, 2017 knew or should have known that my case should have been reassigned as well.

Mr. Hale's name was removed from the ARDC's master roll of attorneys authorized to practice law in Illinois on March 10, 2017. Combine that with the fact that Mr. Hale lost the position as Special Defender in the Third Judicial Circuit in Madison County, Illinois the same day on March 10, 2017. Then reasonable inference exhibits that the persons or entities responsible for removing Mr. Hale as Special Defender knew or should have known that as of March 10, 2017, Mr. Hale was not authorized to practice law in Illinois.

On May 22, 2017 my third stage evidentiary hearing began where Mr. Hale represented me during the proceeding, where witnesses were questioned and evidence was introduce. I had no knowledge nor did Mr. Hale or anyone else inform me that Mr. Hale was no longer a Special Defender in Madison County, Illinois. I had no knowledge that Mr. Hale was not authorized to practice law in Illinois. Prior to May 22, 2017 my post conviction petition had been pending in the circuit court of the Third Judicial Circuit in Madison County, Illinois since April 03, 2003, totaling fourteen (14) years.

In December 2016 I filed a Federal Writ for Habeas Corpus in the Southern District Court of Illinois pursuant to 28 USC 2254, based on inordinate and unjustifiable delay of case no 99-cf-2226 pending in

the Third Judicial Circuit. The Federal Court dismissed my writ of habeas corpus May 23, 2017 based on the Third Judicial Circuit taking action on my post conviction petition on May 22, 2017.

The unidentified responsible person(s) or entities failure to act when there was a duty to do so was a reckless disregard of my procedural due process and equal protection rights. The unidentified responsible persons and entities knew or should have known that I would suffer injury from Mr. Hale's willful and wanton misconduct of continuing to represent my case when he was unauthorized to do so.

The purpose of filing a petition pursuant to 725 ILCS 5/122 Post Conviction Hearing Act is to establish that one should not be convicted, sentenced and incarcerated based on a substantial showing of a violation of one's United States and/or Illinois Constitutional Rights. The evidence, facts and precedential case law filed in my post conviction petition demonstrate that I have been fraudulently and wrongfully convicted and that I should not be incarcerated.

I have suffered injury where I have been wrongfully imprisoned for nineteen years seven months and for sixteen of the nineteen years, my post conviction petition has been pending in the Third judicial Circuit in Madison County, Illinois.

I suffered injury where the willful and wanton misconduct of Mr. Hale prevented the Federal Court from taking jurisdiction of my case no. 99-cf-2226 by relaxing the exhaustion requirement based on inordinate and unjustifiable delay.

I also suffered injury where the willful and wanton misconduct of Mr. Hale caused my case to be further delayed in the Third Judicial Circuit.

Pursuant to Illinois Supreme Court Rule 224 I seek to identify the persons and entities responsible for damages by failing to exercise their responsibilities and duties owed to me pursuant to the Due process Clause and the Equal Protection Clause of the Constitution of the United States 14<sup>th</sup> Amendment and the Constitution of the State of Illinois Article 1. Section 2. The responsible persons and entities allowed Rand Hale to continue practicing law in the Third Judicial Circuit when he was unauthorized to do so,



and Hale's continuance representation of my case and starting the evidentiary hearing on May 22, 2017 after fourteen year delay injured me.

The Appellate Court recognize that there are limited circumstances where discovery is allowed prior to the filing of a complaint. Rule 224 allows someone who has been injured, but needs to identify who may be liable for damages to file an independent action seeking a court or allowing limited discovery.

Allen v. Peoria Park District 360 Ill. Dec. 446, 968 N.E.2d 1191 (Ill. App.3 Dist. 2012) citing Beale v. Edge Mark Financial Corp. 279 Ill. 3d. 242, 215 Ill. Dec. 905, 664 N.E. 2d 302 (1996).

Supreme Court Rule 201 (b) (1) allows a party to obtain by discovery full disclosure regarding any relevant matter, even where the discovery "relates to the claim or defense of the party seeking disclosure." Ill. S. Ct. 201(b) (1) (eff. July 1, 2002). A discovery request may properly be quashed where the trial court has before it sufficient information upon which to decide defendant's motion to dismiss. Allen v. Peoria Park District, Id. Citing Everts v. Edward hospital Ass'n, 247 Ill.App3d. 717, 734-35, 187 Ill. Dec. 490, 617 N.E.2d 1211 (1993). However a trial court should not refuse a discovery request and grant a motion to dismiss where it reasonably appears discovery might assist the party opposing the motion. Yuretich v. Sole, 259 Ill. App.3d. 311, 197 Ill. Dec. 545, 631 N.E.2d 767 (1994) (limited discovery will cast light on unclear portion of complaint.) Especially where the facts are exclusively within the knowledge of the defendant, it may be error to deny discovery before ruling on a motion to dismiss. Yuretich, 259 IllApp.3d at 317, 197 Ill. Dec. 545, 631 N.E.2d 767; John Burns Construction Co. v. City of Chicago 234 Ill. App.3d 1027, 176 Ill. Dec. 326, 601 N.E.2d 1024 (1992) Cole Taylor bank v. Corrigan 230 Ill. App. 3d 122, 127, 172 Ill. Dec. 114, 595 N.E. 177 (1992).

Trial courts have a readily available mechanism to determine whether a Illinois Supreme Court Rule 224 petition sufficiently states a cause of action against the potential defendant in 735 ILCS 5/2-615 (2006).

The jurisprudence in Illinois Supreme Court Rule 224 tells potential litigants that trial courts in Illinois possess sufficient tools and discretion to protect any anonymous individuals from any improper inquiry into his or her identity. The protections offered by Rule 224 are significant, first, the petition must be verified, Second, the petition must state the reason the proposed discovery is necessary, Third, the discovery is limited to the identity of one who may be responsible in damages to the petitioner, Fourth and most importantly, the trial court must hold a hearing at which it must determine that the unidentified person is "one who may be responsible in damages" to the petitioner.

The fundamental requirement of procedural due process is the opportunity to be heard at a meaningful time in a meaningful manner. People v. P.H., 145 Ill.2d 209, 235, 164 Ill. Dec. 137, 582 N.E.2d 700 (1991).

Due Process is a flexible concept which calls for such procedural protections as a particular situation demands. Atwood v. Warner Electric brake & Clutch Co. 239 Ill. App.3d 81, 89, 179 Ill. Dec. 18, 605 N.E. 2d 1032 (1992).

Due process phase means that no person shall be deprived of life, liberty, property or any right granted him by statute, unless matter involved first shall have been adjudicated against him upon trial conducted according to established rules regulating judicial proceedings, and it forbids condemnation without a hearing. Petit v. penn, La. App., 180 so. 2d. 66, 69.

Aside from all else, 'due process' means fundamental fairness. Pinkerton v. Farr, W. Va. 220 S.E. 2d 682, 687.

Equal Protection Clause of Federal and Illinois Constitution requires that persons under like circumstances be given equal protection in the enjoyment of personal rights and the prevention and redress of wrongs. In re Adoption of Richardson 251 C.A. 2d 222, 59 Cal. Rptr. 323, 334.

The Constitution guarantee of "equal protection of the laws" means that no person or class of persons shall be denied the same protection of the laws which is enjoyed by other persons or other classes in

like circumstances in their lives, liberty, property and in their pursuit of happiness. People v. Jacobs 27 Cal. App.3d 256, 103 Cal. Rptr. 536, 543. 14<sup>th</sup> Amend., U.S. Const.

The equal protection of the laws of a state is extended to persons within its jurisdiction, within the meaning of the constitutional requirement, when its courts are open to them on the same conditions as to other, with like rules of evidence and modes of procedures, for the security of their persons and property, the prevention and redress of wrongs, and the enforcement of contracts, when they are subjected to no restrictions in the acquisition of property, the enjoyment of personal liberty, and the pursuit of happiness, which do not generally affect others; when they are liable to no other or greater burdens and charges than such as are laid upon others; and when no different or greater punishment is enforced against them for a violation of the laws.

#### **IV. CONCLUSION**

This petition for discovery before suit to identify responsible persons and entities should be granted pursuant to Illinois Supreme Court Rule 224. I petitioner have complied with the rules and law that authorizes this Court to order the Respondents to answer the filed Deposition on Written Questions discovery request.

Wherefore, for the above and forgoing reasons. I Valdez-Lamont: Jordan respectfully request that this Court issue an Order authorizing me to obtain such discovery.

Respectfully Submitted

Dated: May 22, 2019

By: Valdez-Lamont: Jordan

**VERIFICATION OF CERTIFICATION**

I, Valdez-Lamont: Jordan, under penalties as provided by law pursuant to section 1- 109 of the Code of Civil Procedures, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that I verily believes the same to be true.

Date: May 22, 2019

BY: Valdez-Lamont: Jordan  
Valdez-Lamont: Jordan  
IDOC# B29482 Law. Corr. Center  
10930 Lawrence Road  
Sumner, Illinois 62466

Subscribe and Sworn to

before me May 22, 2019

Sharon L. Burtch  
Notary Public

