

Syllabus – Non-precedential

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

**OFFICERCOOL45, PETITIONER *v.* UNITED
STATES DISTRICT COURT EX REL FALSUR**

**CERTIORARI TO THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

No. 01–09. Argued January 8th, 2022—Decided January 13th, 2022

Petitioner OFFICERCOOL45iii was found guilty of contempt by court order of District Judge Falsur in *ex parte officercool45iii* on the 6th of January 2022. Respondent affirms reasoning for citation was ‘destruction of court records’, petitioner filed for notice of appeal on grounds of lack of procedural due process as well as unlawful contempt, petitioner then submitted a Writ of Certiorari to the Supreme Court on the 7th of January with merit of briefs set for the 12th of January. Respondent was then admitted *sua sponte* pro hac vice due to holding an outstanding role in the judicial branch. Respondent then provided an informal notice of failure to contest case on the 10th of January.. This court is not tasked with issuing a non-precedential summary disposition in favor of petitioner, as well as interpreting questions presented by petitioner to the Court;

- a) Was the appellant unlawfully held in contempt of court by the lower court?
- b) Was the appellant given Due Process under his Fifth, and Fourteenth Amendment rights?

Held: Petitioner was unlawfully held in contempt of court. Pp. 7

- (a) The petitioner was unlawfully held in contempt of court under 18 U.S.C. § 401. Pp. 6-7
- (b) Due process must be given as a matter of constitutional protections for criminal defendants in non summary criminal contempt. Pp. 4-6

THOMAS, C.J. DELIVERED THE OPINION OF THE COURT,
RUSHING, J.. JOINING. SCALIA, J. TOOK NO PART IN THE
DECISION OF THIS CASE.

Cite as: 1 U. S. ____ (2021) 9

Opinion of the Court

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**SUPREME COURT OF THE UNITED
STATES**

No. 01–09

ALEXJCABOT, PETITIONER *v.* UNITED STATES
DISTRICT COURT EX REL FALSUR

ON WRIT OF CERTIORARI TO THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[January 14th, 2022]

CHIEF JUSTICE THOMAS delivered the opinion of the Court.

I.

Criminal contempt and due process have long been a matter of legal dispute in this court *Id.* including the due process limitations surrounding it. Justice Rutledge observed in his dissenting opinion in *United Mine Workers of America*, however, that some provisions from the Bill of Rights would in his view apply to criminal contempt proceedings including: the provision against double jeopardy(*In re Bradley*, 318 U.S. 50, 63 S.Ct. 470, 87 L.Ed. 500); the provision against self-incrimination (*Gompers*, 221 U.S. at 444); the provision for "suitable notice and adequate opportunity to appear and be heard); (*Blackmer v. U.S.*, 284 U.S. 421, 440, 52 S.Ct. 252, 76 L.Ed. 375); right to

speedy and public trial, compulsory process, and assistance of counsel (*Cooke v. U.S.*, 267 U.S. 517, 537, 45 S.Ct. 390, 395, 69 L.Ed. 767); and protection against cruel and unusual punishment (*U.S. ex rel. Brown v. Lederer*, 7 Cir., 140 F.2d 136, 139). *United Mineworkers*, 330 U.S. at 364 (Rutledge J., dissenting). We see due process is explored further by the courts in more recent times in *U.S. v. Dixon*, 509 U.S. 688, 113 S.Ct. 2849, 125 L.Ed.2d 556 (1993), and *International Union, United Mine Workers of America v. Bagwell*, 512 U.S. 821, 114 S.Ct. 2552, 129 L.Ed.2d 648 (1994), which included presumption of innocence, proof beyond a reasonable doubt and guarantee against self-incrimination (*Gompers*, 221 U.S. at 444); notice of the charges, assistance of counsel, and right to present a defense (*Cooke*, 267 U.S. at 537); and public trial(*In re Oliver*, 333 U.S. at 278). See *Dixon*, 509 U.S. at 696; *International Union*, 512 U.S. at 826-27. Similarly, *Gompers* was cited in *Young v. U.S. ex rel. Vuitton et Fils, SA*, 481 U.S. 787, 798-799, 107 S.Ct. 2124, 95 L.Ed.2d 740 (1987). Prior to these decisions, the Supreme Court in *Bloom v. Illinois*, cited *Gompers* as establishing the presumption of innocence, requirement of proof beyond a reasonable doubt, and testimonial privilege. *Id.*, 391 U.S. 194, 205, 88 S.Ct. 1477, 20 L.Ed.2d 522 (1968). One would surmise that if *Gompers* was a statement of the constitutional minimal threshold for notice, then it would be cited repeatedly as a statement for that standard. *Cooke* and *Blackmer* are thus the critical due process cases regarding threshold constitutional due process notice requirements for indirect or nonsummary contempt matters. In *Blackmer* the Court emphasized that criminal contempt proceedings were *sui generis* and not criminal prosecutions within the Sixth Amendment or common understanding. *Blackmer*, 284 U.S. at 440. With citation to *Cooke*, the Court in *Blackmer* vaguely held, "The requirement of due process in such a case is satisfied by suitable notice and adequate opportunity to appear and to be heard." *Blackmer*, 284 U.S. at 440. The Court explained:

"The petitioner urges that the statute does not require notice of the offense, but the order to show cause is to be issued after the witness has failed to obey the subpoena demanding his

attendance and the order is to be made by the court before which he was required to appear. This is sufficient to apprise the witness of the nature of the proceeding and he has full opportunity to be heard". *Id.*, 284 U.S. at 256. Therefore, in the prosecution of contempt, except for that committed in open court, requires that the accused should be advised of the charges and have a reasonable opportunity to meet them by way of defense or explanation. *Id.*, 267 U.S. at 537. However, with respect to due process regarding notice in indirect contempts the Supreme Court has continually referred to *Cooke* (267 U.S. at 537) and *Blackmer v. U.S.*, 284 U.S. 421, 52 S.Ct. 252, 76 L.Ed. 375 (1932). See *Dixon*, 509 U.S. at 696; *Bagwell*, 512 U.S. at 826; *Bloom v. Illinois*, 391 U.S. 194, 205, 88 S.Ct. 1477, 1484, 20 L.Ed.2d 522 (1968), this court therefore referring to *Cooke* notices that the petitioner was deprived of fundamental procedural due process in their criminal contempt prosecution. Continuing on, this court keeps in mind that respondent was in constitutional violation, thus petitioner was entitled to further due process rights. The court in *Fernos-Lopez v. United States District Court for the District of Puerto Rico*, 599 F.2d 1087, 1091-92 (1st Cir.), *cert. denied*, 444 U.S. 931, 100 S.Ct. 275, 62 L.Ed.2d 189 (1979) reversed a summary contempt citation issued for failure to follow court instructions, finding that the contemnor's conduct did not obstruct the proceedings or create "any imminent threat to the administration of justice." *Id.* at 1092. Relying exclusively on the Supreme Court's due process interpretations of Rule 42(a), the court found summary contempt to be a constitutional violation in the absence of a threat to the proceedings. See also *Scheleper v. Ford Motor Co.*, 585 F.2d 1367, 1371-72 (8th Cir. 1978) (summary citation for contemptuous answer to interrogatory is due process violation); *United States v. Marra*, 482 F.2d 1196, 1201-02 (2d Cir. 1973) (summary contempt requires an open threat to orderly court procedures). *In re Gustafson*, 650 F.2d 1017, 1028-29 (9th Cir. 1981).

II.

Criminal contempt is a crime in the ordinary sense," *Bloom v. Illinois*, 391 U.S. 194, 201 (1968) (however other interpretations often classify criminal contempt to be *sui generis*, neither civil nor criminal. *State ex Rel. Corn v. Russo Id.* and "criminal penalties may not be imposed on someone who has not been afforded the protections that the Constitution requires of such criminal proceedings," *Hicks v. Feiock*, 485 U.S. 624, 632 (1988). See *In re Bradley*, 318 U.S. 50 (1943) (double jeopardy); *Cooke v. United States*, 267 U.S. 517, 537 (1925) (rights to notice of charges, assistance of counsel, summary process, and to present a defense); *Gompers v. Bucks Stove Range Co.*, 221 U.S. 418, 444 (1911) (privilege against self-incrimination, right to proof beyond a reasonable doubt). Thus "It is well settled that "[i]ndirect criminal contempt proceedings must generally conform to the same constitutionally mandated procedural requirements as other criminal proceedings," and thus "[t]he privilege against self-incrimination" is applicable to a respondent in an indirect criminal contempt proceeding." *Baldassarre v. Erhardt (In re Estate of Baldassarre)* 2018 Ill. App. 2d 170996 (Ill. App. Ct. 2018) For "serious" criminal contempts involving imprisonment of more than six months, these protections include the right to jury trial. *Bloom*, 391 U.S., at 199; see also *Taylor v. Hayes*, 418 U.S. 488, 495 (1974). *United States v. Barnett* 376 U.S. 681 (1964) noting that "The principle that criminal contempts of court are not required to be tried by a jury under Article III or the Sixth Amendment is firmly rooted in our traditions." *Id.*, at 187."

Contempt is defined in general terms as disobedience of a court order or against the dignity or process of the court *State v. Kilbane* (1980), 61 Ohio St.2d 201, 204-205, 15 O.O.3d 221, 223, 400 N.E.2d 386, 390." *State ex Rel. Corn v. Russo*, 90 Ohio St. 3d 551, 555 (Ohio 2001) , it is conduct which brings the administration of justice into disrespect, or which tends to embarrass, impede or obstruct a court in the performance of its functions.'" *Denovchek v. Trumbull Cty. Bd. of Commrs.* (1988), 36 Ohio St.3d 14, 15, 520 N.E.2d 1362, 1363-1364, quoting

Windham Bank v. Tomaszczyk (1971), 27 Ohio St.2d 55, 56 O.O.2d 31, 271 N.E.2d 815 *State ex Rel. Corn v. Russo*, 90 Ohio St. 3d 551, 554 (Ohio 2001) (using state-level precedence as a 'guiding factor'). When it comes to the question of whether petitioner in fact obstructed court records, the matter becomes all the more difficult as while altering with court records constitutes contempt, it did not obstruct the proceedings in anyway nor did it "bring[s] the administration of justice into disrespect, or which tends to embarrass, impede or obstruct a court in the performance of its functions". Thus the court notices petitioner was unlawfully held in criminal contempt by the lower court.

III.

While this court is to make a non precedential opinion in summary deposition in favor of the plaintiff, this court would have, considering if a genuine material of fact were present *Id.*, overturned citation of contempt either way considering the relevant case law and statutory law revolving around this case. Therefore effective immediately petitioners' contempt citation is overturned.

It is so ordered.