

No. 17-1612

In the
Supreme Court of the United States

TERRY LEE HINDS,
Petitioner,

—v—

“UNITED STATES” GOVERNMENT,
Respondents.

On Petition for Writ of Certiorari to the
United States Court of Appeals for the Eighth Circuit

PETITION FOR REHEARING

TERRY LEE HINDS
PETITIONER PRO SE
438 LEICESTER SQUARE DRIVE
BALLWIN, MO 63021
(636) 675-0028
ALPHAOMEGA44@OUTLOOK.COM

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◆ (888) 958-5705 ◆

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PETITION FOR REHEARING

Pursuant to Supreme Court Rule 44, Petitioner respectfully petitions this Court for rehearing of this case, before a full nine-Member Court. Petitioner respectfully move this Court for an order (1) vacating its order of October 1, 2018, which denied the petition for writ of certiorari filed by Petitioner on May 24, 2018, and (2) granting the petition for writ of certiorari and consider his case with merits briefing and oral argument. The grounds for rehearing are stated below and was filed within 25 days of this Court's decision /order pursuant to Supreme Court Rule 44.2.



GROUND FOR REHEARING

This Court grants petitions for rehearing in only extraordinary circumstances. Petitioner respectfully submits that the ramifications of the Court's decision/order, of which, not being fully briefed at the petition stage, cry out for a second look. The constitutional right to protest for the free exercise of religious liberty within a governmental forum and to petition the government regarding a Ninth Amendment matter of a civil liberty sought, for *raison d'etre*, are controlling issues of law in this case.

Petitioner's case, controversies and its extraordinary circumstances or filings sought prospective, declaratory or other relief consistent as a legal remedy

at law, with regards to the First, Fifth and Ninth Amendment rights and rule of law. (Pet.App.70a-98a) (Pet. App.99a-101a, 213a-290a) (PFR.App.II.334a-356a). These three constitutional rights are guaranteed, fundamental or substantive, respectively. Petitioner holds them to be essential rights as manifesting unalienable rights. (Pet.App.574a-576a). A single deprivation of an individual's civil liberties or of a constitutional right is one too many.

The extraordinary circumstances of this case legal proceeding, was presented to the Eighth Circuit through a "VERIFIED PETITION FOR A WRIT OF MAN-DAMUS & A WRIT OF PROHIBITION OR, IN THE ALTERNATIVE, A VERIFIED PETITION FOR A WRIT OF CERTIORARI". (Pet.App.15a-50a). However, the judges of the Eighth Circuit forsake their sworn oath of office and solemn duty or important role to faithfully discharge Court doctrines and to uphold the U.S. Constitution and the laws made pursuant thereto; when a district judge actions amounting to a judicial usurpation of power within a case or of its appeal, was unwarranted by principles and usages of law. (Pet. App.498a-573a). This district court judge's dictum decreed that Federal Sovereign Immunity Doctrine and U.S. Tax law shall deprive Petitioner any reliefs sought or a legal remedy provided. (Pet.App.3a-14a).

Petitioner pleaded dominating deprivations of his religious liberty within a forum that sanctioned unjust burdens on protected speech when Respondent compelling viewpoint/content-based restrictions are reached. (PFR.App.II.9a-333a). The "United States" government has taken away Petitioner's free exercise of protected

speech in the sacred rights of religious belief and conscience; without a strict scrutiny standard of judicial review used in this case or within its appeals. (Pet.App.1a-14a) (Pet.App.51a-69a) (Pet.App.404a-457a) (Pet.App.577a-595a).

The material facts are not in dispute. (PFR.App. II.9a-333a). The Solicitor General, Noel J. Francisco waived the Respondent right to file a response to the petition for writ of certiorari in this case. Petitioner's petition set forth the "REASONS FOR GRANTING THE WRIT" (Pet.13-18) and detailed the issues presented in this case of exceptional importance (Pet.19-38). Such reasons and issues may affect other substantial grounds not previously presented and may affect the Court's reconsideration of this case.

This petition for rehearing and the petition for a writ of certiorari is petition speech as a protected speech of the First Amendment. "Petition DENIED" means Petitioner's petition speech for a rehearing is utterly pointless or his pure speech for writ of certiorari is a moot point; because the rule of law or its doctrines have become somehow hypothetical. (Pet.App. 213a-310a).

I. REASONS FOR GRANTING THE PETITION

1. This Court's decision/order jettisons explicit textual commands of the First Amendment's Establishment Clause. The sweeping language set forth as "Petition DENIED" or with an opinion omitted, offends the basic principles of due process. It establishes Sec. 32 of the Judiciary Act of 1789 as meaningless. This decision/order lessens or diminishes the law and removes the writ sought "for any defect or want of

form”. This Court was to “proceed and give judgment according as the right of the cause and matter in law shall appear unto them, without regarding any imperfections, defects, or want of form in such writ”. (Pet. App.150a).

2. The efficacy of a civil liberty sought in a “course of proceeding whatsoever” is knowing the “very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws whenever he receives an injury. One of the first duties of government is to afford that protection.” (Pet.App. 59a.¶1,328a-329a,534a-535a).

3. This Court’s decision/order fosters an acceptance in the Eighth Circuit procedural default/defects which are supported by the record. (Pet.App.498a-573a) (PFR. App.II.1a-5a). This decision/order intrudes upon the central prerogatives of the Executive Branch by making Article II powers meaningless. (Pet.App. 152a-159a, 387a-393a).

4. This decision/order, and Eighth Circuit judgment/mandate has the full force and effect of law, and thereby suppress the purpose, if not, the “Principles of Religious Liberty” a policy on “Federal Law Protections for Religious Liberty” in the United States. (Pet. App.333a-345a.¶¶1,2,4,8,10,12,13,14).

5. This decision/order departs with the doctrine of *stare decisis*, pursuant to free exercise clause precedents relied upon. (Pet.App.350a-356a). This Court’s decision/order allows the Respondent to maintain or endorse religion and to coerces the Petitioner and others similarly situated with an organized religion (Taxology) (PFR.App.III.1a-242a) via tax law violating the establishment clause. (Pet.App.357a).

6. This decision/order is unconstitutional; because “it is a general and indisputable rule that where there is a legal right, there is also a legal remedy by suit or action at law whenever that right is invaded.” *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 163 (1803).

7. This decision/order forsakes other constitutional provisions, while abandoning 28 U.S. Code § 2106, as Respondent discriminates on the basis of religion. (Pet.App.160-212a). This decision/order advances a stigmatic injury.

8. This Court’s decision/order or the Court actions have demonstrated a total disregard for Petitioner’s fundamental or unalienable rights by “prohibiting the free exercise thereof” in favor of compelled association and law respecting an establishment of religion. (Pet. App.404a-457a). Within the rubric of this religious animus, the RFRA whereby Congress intent came from within 26 U.S. Code § 7806-Construction of title: (Pet. App.317a-318a.¶B-I):

(a) Cross references

The cross references in this title to other portions of the title, or other provisions of law, where the word “see” is used, are made only for convenience, and shall be given no legal effect.

(b) Arrangement and classification

No inference, implication, or presumption of legislative construction shall be drawn or made by reason of the location or grouping of any particular section or provision or portion of this title, nor shall any table of contents, table of cross references, or similar outline,

analysis, or descriptive matter relating to the contents of this title be given any legal effect.

9. Such indifferences by voting judges and justices or the nonobservance actions of the judicial branch constitutes an extraordinary circumstance and irreparable harm to the Petitioner. The issue and Questions Presented in the petition for writ of certiorari are too important to leave unsettled. (Pet.i). Such affirmance by an intellectualism of indifference to Petitioner's petition speech or pure speech regarding the establishment clause challenges and free exercise claims of the First Amendment manifested as protected speech and expression of protected conduct operates within a public, designated or nonpublic forum in this case. (Pet.App.160a-212a,577a-595a) (PFR.App.II.6a-333a) (PFR.App.III.1a-242a).

10. The Petitioner's challenges and meritorious claims are guaranteed to recur in the absence of a definitive ruling from this Court. This Court's decision/order triggers an "injury in fact" by its own policy or forum and failed to preserve the separation of powers by limiting the courts to judicial review ensuring the principles of due process. (Pet.App.493a-497a).

11. The constitutional provisions of the First, Fifth and Ninth Amendments are the lawful ambits of this case with a rehearing appropriate for this Court to befittingly consider the intervening circumstances of a substantial or controlling effect, and to the other substantial grounds not previously presented, to-wit:

- I. Whether the First Amendment right of protected speech in the free exercise of religious beliefs or within a person's sacred rights of conscience extends beyond the home; and if

not, to what extent the government may enact legislation, or manifest court's decisions/orders to curtail pure or petition speech presented in this case or when compelling viewpoint/content-based restrictions causing Petitioner to speak the government's religious message, thereby abridging unalienable rights of life, liberty and the pursuit of happiness or of a public benefit.

- II. Whether within a public, designated or non-public forum; did the district court abuse its discretion by dismissing this case without adjudicating the merits of Petitioner's First Amendment case and did the Eighth Circuit appropriately conclude if a district judge actions amounting to a judicial usurpation of power or without strict scrutiny standard of judicial review used for substantive rights in this case or to avoid a grievous miscarriage of justice was warranted by principles and usages of law.
- III. Whether this Court should vacate the Court of Appeals' judgment and instruct that court to remand the case to the district court with directions to uphold the U.S. Constitution and the laws made pursuant thereto; providing prospective, declaratory or other relief consistent with the judgment sought as a legal remedy at law, with regards to the First, Fifth and Ninth Amendment rights established by the U.S. Constitution and in accordance with U.S. Supreme Court's decisions,

doctrines or the Judiciary Act germane to this case or of its appeals.

12. Unquestionably, this case illustrates the reasons for the longstanding practice and necessity of this Court's supervisory power. The issues presented sow inconsistency within the law when the Eighth Circuit entered a decision that sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power. (Pet.1-39).

13. The substantial grounds above, or the substantial grounds not previously presented, are of profound nationwide importance and are centered on protecting constitutional rights granted and liberties guaranteed by the Bill of Rights. (Pet.App.596a-597a).

A. Summary of Argument

The text, history, and purpose of the First Amendment demonstrates that the maxim "Congress shall make no law respecting an establishment of religion" encompasses an affirmative representation about a threshold of a public benefit and a lawful right by "prohibiting the free exercise thereof". The scope, meaning, and contours of religion have a historically common-law footing, but are not defined by Congress, and righteously so. The manifested issues presented by this case and its arguments are linked by a common thread—the enduring principle of law and liberty.

This Court has denied certiorari and failed to address the presented substantial questions of national or exceptional importance that sows inconsistency within the law, and as to call for an exercise of this Court's supervisory powers pursuant to Supreme Ct.

Rule 10(a)(c). (Pet.i). This cornerstone case and its proceedings turn on the fundamental distinction between the Supremacy Clause being upheld and the legal enforcement of First Amendment establishment clause challenges presented in this case. That question can arise in a variety of legal and factual contexts. Herein, the touchstone issue presented is whether the Eighth Circuit or district court erred as a matter of law. Intrinsically, in Amendment 5, United States Constitution Bill of Rights, in pertinent part provides: “No person shall be . . . deprived of life, liberty, or property, without due process of law”.

The constitutional lineage in our fabric of faith and testimony, when abridging the freedom of speech, and to petition the government for a redress of grievances is the controlling law for the free exercise of meritorious claims and the controversies presented within this case. The precepts of the Supremacy Clause embody conflict-resolving strategies of controlling law. Thus, this clause is given primacy over the other’s acts in the event of actual conflict(s) with the U.S. Constitution or laws made pursuant thereof, and thus contemplates the act of judicial review. One’s faith in the Ninth Amendment “the silent amendment” is whereby Quintessential Rights are sought in this case through the judicial system. Under this approach, Congress is not the arbiter of the scope and nature of the precepts of freedom and rights. Sequentially, the path of this case now sits at the brink or edge of a great precipice for the intersection of Church and State inception; to cast a long shadow design on the shear wall of separation between church and state. Acutely mindful or emerging is a hybrid forum in a Ninth Amendment right sought, for *raison d’etre*, the nexus

to advance faith and freedom. The Ninth Amendment clause's language, context, and history leave some important questions unanswered in matters of final or infinite judgement. Such is, the case herein, when Petitioner embracing a "spiritual stake in First Amendment values sufficient to give standing to raise issues concerning the Establishment Clause and the Free Exercise Clause". These words are the legal ambits of protected speech and expression of protected conduct.

Indefinite arguments and our intellectualism of indifference poses one of the gravest dangers to a society that has historically valued the principles of due process and the rule of law. There are three main threshold arguments of contention:

- I. The First Amendment right of protected speech in the free exercise of religious beliefs or within a person's sacred rights of conscience extends beyond the home.
- II. The Petitioner's Protected Speech and Expression of Protected Conduct operates within a public, designated or nonpublic forum in this case; thus, to advance one's unalienable rights to life, liberty, or property, through a due process of law.
- III. Constitutional law, vested and substantive rights with a moral certainty as Quintessential Rights of the First Amendment within Petitioner's case or controversies is to make available prospective, declaratory or other relief consistent with the judgment sought as a legal remedy at law.

Lastly, Petitioner argues this Court should grant the rehearing and vacate the Court of Appeals' judgment and instruct that court to remand the case to the district court with directions to uphold the U.S. Constitution and the laws made pursuant thereto. The arguments presented in the Petitioner's petition for certiorari support the cardinal constitutional commands of the First, Fifth and Ninth Amendment and not the Eighth Circuit indifference or a district court's final judgement, both offending the basic principles of due process. If this Court grants a rehearing and certiorari, this Court instead would be the final arbiter of these matters through a definitive ruling.

II. REHEARING SHOULD BE GRANTED TO DETERMINE THE PROPER REMEDY

If [THE CODE] is law respecting an establishment of religion and if such an application is unconstitutional, a rehearing should be granted to determine the proper legal remedy. A proper legal remedy was sought but the district court refused to exercise appropriate jurisdiction or "subject matter jurisdiction" over of this case or its controversies.

The core issue is whether Petitioner is entitled to prospective, declaratory or other appropriate relief consistent with the judgment sought as a legal remedy at law, with regards to the First, Fifth and Ninth Amendment rights established by the U.S. Constitution and in accordance with U.S. Supreme Court's decisions, doctrines or the Judiciary Act of 1789 germane to this case or of its appeal. This case requires an interpretation and application of the First and Fifth Amendments to the United States Constitution and as a matter of first impression in a Ninth Amendment right of a civil

liberty sought, for *raison d'être*. The legal proceedings of this suit also manifested substantive and procedural due process challenges to First Amendment free exercise claims of protected speech regarding religious beliefs and conscience. A Fifth and Ninth Amendment right or germane Court's doctrines, that consorts seamlessly with, the Petitioner's petition speech of establishment clause challenges, of which, were not properly considered. A strict scrutiny standard of judicial review was never applied by the Court, thus advocating a forum to alter the law with absolute impunity. (Pet.App.577a-595a).

The crucible of this litigation addressed the religious matter of converting taxpayers into taxp[r]ayers advanced by IRS' dogmas to which invades the sphere of intellect and spirit; which it is the purpose of the First Amendment to our Constitution to reserve from all official control. The Constitution prohibits governments from compelling individuals to participate in religious activities or to speak a government's religious message. The various forums used and the religious messages or religion advanced under the auspices of the government in this case, its laws, legal proceedings, or appeal is profound, self-evident or burdensome. These unresolved issues or the lack of enforcement in the Separation of Church and State doctrine, or when compelling viewpoint/content-based restrictions in the realm of law or religious liberty, encroaches upon free exercise rights or the unconstitutional condition doctrine of this Court. This existing disorder is untenable. (PFR.App.II.357a-364a) (PFR.App.III.1a-242a).

A Court sanctioned remedy is required because Federal Sovereign Immunity Doctrine precludes any

remedy or other adequate means of reliefs sought in this case. The Court's Federal Sovereign Immunity Doctrine prevent a duty that is imperative, or commanding the performance of a specified official act, legally impossible; or worse to correct a prior illegal action or unconstitutional activities. Federal Sovereign Immunity Doctrine is a dogmatic doctrine in defense of absolutism or to advance the "United States" government's religious zeal of absolutism in an IRS' creed, or the pious beliefs and devout practices in Taxology and Taxism. This Court's medieval or theology doctrine of Federal sovereign immunity ("the King can do no wrong") is misplaced, and barred without due process of law a provision in 5th Amendment. In today's world of legalism, the dark vast abyss of anarchy and doubt definitely emanates from the source of a majority in "Petition DENIED".



CONCLUSION

For the foregoing reasons, this case squarely presenting unsettled questions and important issues of federal law with significant practical consequences. Petitioner prays this Court grants a rehearing of the order of denial, grants the petition for certiorari, vacates the decision of the court below, and remands the case for further proceeding.

Respectfully submitted,

TERRY LEE HINDS
PETITIONER PRO SE
438 LEICESTER SQUARE DRIVE
BALLWIN, MO 63021
(636) 675-0028
ALPHAOMEGA44@OUTLOOK.COM

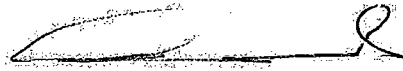
OCTOBER 22, 2018

RULE 44 CERTIFICATE

I, Terry Lee Hinds, petitioner pro se, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury that the following is true and correct:

1. This petition for rehearing is presented in good faith and not for delay.

2. The grounds of this petition are limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented.

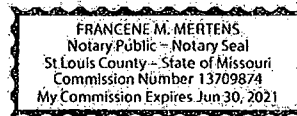


Signature

Executed on October 6, 2018
Date

Notary Public

Subscribed and sworn (if affirmed)
before me this 6th day of October, 2018
By Francene M. Mertens



**Additional material
from this filing is
available in the
Clerk's Office.**