

No. 18-239

**In The
Supreme Court of the United States**

ARICK JUSTIN RINALDO,

Petitioner,

v.

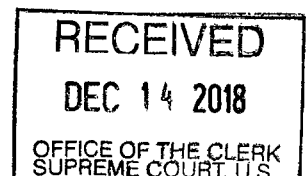
BRYAN MAHAN, M.D.; CATHOLIC HEALTH
INITIATIVES COLORADO D/B/A CENTURA
HEALTH-PENROSE-ST. FRANCIS HEALTH
SERVICES; MEMORIAL HOSPITAL; JUDGE
ROBIN CHITTUM; KRISTIN HOFFECKER;
ELIZABETH KLEINER; AND PIKES PEAK
PALLIATIVE AND HOSPICE CARE, INC.,

Respondents.

**On Petition For Writ Of Certiorari
To The Colorado Court Of Appeals**

PETITION FOR REHEARING

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QUESTION PRESENTED FOR REVIEW

DID THE DEPRIVATION OF ACCESS TO COLORADO'S ICCES FILING SYSTEM (Integrated Colorado Court E-File System) FOR PRO SE LITIGANTS CAUSE REVERSIBLE STRUCTURAL ERROR AND DOES THE DEPRIVATION OF ACCESS TO ICCES DISCRIMINATE AGAINST PETITIONER AS A PRO SE LITIGANT AND DEPRIVE EQUAL ACCESS TO THE COURTS, DUE PROCESS AND EQUAL PROTECTION UNDER THE LAW?

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Arick Justin Rinaldo respectfully moves the Court for reconsideration of his Petition for a Writ of Certiorari to review the judgment of the Colorado Supreme Court.

OPINIONS BELOW

The Colorado Supreme Court on May 21st, 2018, did deny my Petition for Writ of Certiorari en banc after review of the record, briefs, and the judgement of the Colorado Court of Appeals. The Court of Appeals affirmed the multiple court orders of the trial court dismissing claims against each of the defendants prior to trial. On October 29th, 2018, this honorable Court denied petition for writ of Certiorari. On November 23rd, 2018 Petitioner filed motion for rehearing. On November 27th, 2018 the Clerk of this Court directed Petitioner to correct certain defects within 15 days. Petitioner seeks rehearing and in support would show unto the Court as follows:

JURISDICTION

Petitioner seeks review of the decision of the Colorado Supreme Court entered on May 21st, 2018. This Court's jurisdiction rests under Article III of the United States Constitution, the Judiciary Act of 1789, and the Certiorari Act of 1925.

STATUTORY PROVISION INVOLVED

Colorado State custom and policy set by the Colorado Supreme Court denies access to the ICCES electronic filing system to pro se litigants thereby depriving us equal footing, access to the courts, due process and equal protection under the law.

GROUND

1. Timely and accurate service of process with access to ICCES. (init. pet. Pg 6)
 - a) At the first of four hearings I would have been present telephonically had I had ICCES access, as detailed in my initial petition. Without question the case would have had a different and fair outcome had I been present for the first hearing.
2. Real time service of process with ICCES. (init. pet. Pg 14)
 - a) I was sandbagged for the second hearing. Notice of hearing was not timely sent. The notice arrived in the mail the day of the hearing. I was actually present at the courthouse the day of the second hearing to file a motion with the clerk, yet had no clue that a hearing had occurred in my absence. Undoubtedly, the case would have had a different and fair outcome had I been given proper and timely notice of this hearing through ICCES.

3. Equal access to filed documents in real time with ICCES. (init. pet. Pg 19)
 - a) At the only two hearings I was present for the Court and defense counsel discussed rulings I was not privy to and motions which I was unaware of to my absolute detriment.
4. Access to the entire record 24/7 same as an attorney would have resulted in a different outcome in this case.

ARGUMENT

In my initial petition, I demonstrated in detail how the deprivation of access to the ICCES, Integrated Colorado Court E-file System, did deprive me access to the courts, due process and equal protection under the law. I failed though to properly argue and enumerate all the grounds this deprivation did cause. I incorporate all the facts and argument in my initial petition and addend the facts and argument herein.

I abandon my claims before this Honorable Court relating to Colorado Statutes Title 15, articles 18 and 18.5 relating to patient rights as the record is insufficient to litigate these claims at this stage.

I strive to show this Honorable Court how the deprivation of access to the ICCES filing system did cause fundamental structural error in the trial court, as well as the state court of appeals. We stand at the cusp of change where technology is integrating with the old, and e-filing and service *as well as* electronic review of

documents and pleadings has become an integral part of the Court systems both Federal and State. My case in the trial court was regarding the death of my 24-year-old wife. She would be 30 now. I sued 3 hospitals, one government owned at the time. Simply put, my wife Kaitlin was put down, I use the term "euthanized" over her and my objection because that is the closest I can find in my vocabulary to fit what happened. There was nothing merciful about it. Yet that is just the vehicle that brings us here today. This petition is to compel the states to grant access to the electronic filing systems to all pro se litigants so we have equal footing, access to the courts, and due process under the law.

After filing my initial pro se complaint against the various powerful corporate and governmental entities, the race to quash the case before it got to trial was on. Defendants had a specific agenda to make sure the case never made it to jury trial, and the easiest way was the road taken.

- 1) ***Pleadings were filed, service was certified but they were never mailed.***
- 2) ***Hearings were set to rule on these motions with insufficient or untimely notice or without notice at all.***
- 3) ***Motions to dismiss were thereby granted unchallenged.***

The record shows influence swayed the clerks of both the trial court and the state appellate court in matters of filing. There were only four hearings before the case was finally thrown out. The first two hearings,

the most important, I was not present for at no fault of my own. In my initial petition (Pgs 6-19), I demonstrated how this would never have happened had I had access to the ICCES filing system. (*denied in writing in the trial court*) By the time the first two hearings were done, the case was almost over. Most defendants were dismissed because I did not show (*for lack of timely or sufficient notice*) and motions to dismiss went unchallenged. (I did not receive service of all motions) From this point, I was never able to roll the stone up the hill again. Thereafter, I timely appealed to the state court of appeals. But the case was against a government entity. I was subject to frivolous state prosecutions (*later nolle prossed*) While the case was pending in the court of appeals, I was cast in irons without bail for the frivolous case. Had I had access to ICCES I would have had access to the 896-page electronic record for the appeal. I was forced to file a handwritten brief without benefit of the record for lack of access to ICCES. Defendants used tools at their disposal to physically prevent me from prosecuting my case, and my appeal. Evidence of the appellate injury was claimed under case number 17-cv-1582 to no avail.

We are here today because I have a dream, I refuse to give up. I still believe there is freedom in this great country and this court is the last bastion of hope for that freedom. As a pro se litigant, access to the electronic filing systems in the states is essential for an even playing field. There are many things that happen outside the record that cannot be proven. It was a terrible battle for many years which did not cease until

the court of appeals dismissed my case. This battle was to protect and preserve documents, filings and pleadings, and receive service and notice of hearings and make it to court and respond to all the pleadings. One cannot respond to a pleading he is not served with, nor show for a hearing he has no notice of. These tactics used by Defendants, though unethical and illegal, were an effective tool and campaign and appear to be part of the process in this day and age. One of the Defendant's law firms I was against had 600 attorneys on staff. They had whole teams of investigators and agents. I found myself subject of their unethical actions over several years. *(There were multiple teams, one that broke into the domicile and vehicles, stealing documents and evidence placing rootkits on computers and deleting documents, another that tailed me when leaving so the break-in team could work unadulterated, another that monitored me at home.)*

The foregoing is to illustrate how important it is to have unadulterated access to the record during the case, to notice of hearing, to all the pleadings. The tactics I was subject to would not work against an attorney, *because he has access to the electronic filing system*. Feigning service, stealing documents, intercepting mail, insufficient untimely notice or no notice of hearings . . . attorneys are not subject to these tactics for that very reason. ICCES access would have prevented the myriad of off record and on record claims, from when I was incarcerated in the middle of my appeal and denied access to the record, to the missed hearings and unanswered pleadings in the trial court.

I also demonstrated how lack of access to ICCES resulted in confusion in the trial court (init. pet. Pg 19) where the judge and the defendants knew exactly what document or pleading we were discussing, and I was just left guessing. (*At the two hearings I did have.*)

The concept I am trying to demonstrate here is how important it is for equal footing, to have access to the ICCES electronic filing system as a pro se litigant. It is the leveler; it is the tool that would have prevented the case from being dismissed without a fight and without development of the record. This case was so complex, there were 8 defendants all filing multiple similarly titled motions to dismiss, and for summary judgement, there were answers, amendments. Some of the pleadings were filed electronically and served through ICCES in the US mail. Some pleadings were certified as served, (not through ICCES) and never sent. Then hearings were set and held without me. I went to the courthouse on a regular basis for printouts of the case summary, searching for pleadings I did not have, secret hearings held without me. I have access to the Federal PACER system. I assume this is what ICCES access would have been in the state court system. I don't know how to emphasize how important electronic access is as a tool to litigate both civil and criminal actions.

My wife has passed. This case has become about a fight for freedom, a fight for due process, a fight to access the courts. The wrongful death suit is the vehicle important enough to make that happen. I seek access to the electronic filing systems for pro se litigants both

civil and criminal throughout all the states. I fight for freedom, for due process, for our country. As a pro se litigant I have the right to the same access as any attorney. Equal electronic access is essential to due process, to access to the courts, to freedom.

In *Miranda v. Arizona*, 384 U.S. 436 (1966), Ernesto Miranda lost his trial on remand. But, look at how important that case was. I am before this court because my case got railroaded and I was denied my day in court by Defendants abusing the system surreptitiously. This would not have happened with access to the ICCES filing system. The 14th Amendment, in declaring that no State **"Shall deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws,** undoubtedly intended, not only that there should be no arbitrary deprivation of life or liberty or arbitrary spoliation of property **but that equal protection and security should be given to all under like circumstances in the enjoyment of their personal and civil rights;** that all persons should be equally entitled to pursue their happiness and acquire and enjoy property; **that they should have like access to the courts of the country** for the protection of their persons and property, the prevention and redress of wrongs, and the enforcement of contracts; **that no impediment should be interposed to the pursuits of anyone except as applied to the same pursuits by others under like circumstances; that no greater burdens should be laid upon one than are laid**

upon others in the same calling and condition, and that in the administration of criminal justice no different or higher punishment should be imposed upon one than such as is prescribed to all for like offenses." *Barbier v. Connolly*, 113 U.S. 27 (1885).

CONCLUSION

My right to access ICCES is fundamentally intrinsic in my right to access to the courts. I am deprived equal access to other similarly situated litigants, and I am deprived the same access as my opponents who are lawyers; and that this discrimination did cause fundamental structural error in the trial court that, were it not for this error, would not have occurred, and the outcome of the case would have been drastically different.

The principles of equal footing and equal protection and access to the courts for all persons are entrenched in our system of Jurisprudence. How many more years must pro se litigants be discriminated against in the states before we gain equal footing? It is difficult enough to navigate the court systems as pro se litigants without access to this simple advance in technology available to all who are not of our class. And finally, if not this case as an example, what case? Only a pro se litigant will fight for the instant cause.

It is my hope that this case will also open the door for pre-trial detainees that take up the mantle of their defense as in the foundational access to the courts cases *Bounds v. Smith*, and *Lewis v. Casey* that

predated the internet and electronic law libraries on a single disk. (*where the States still whimsically grant access willy-nilly to pre-trial criminal defendants*)

I admit in my studies the majority of pro se cases are frivolous and an embarrassment to read. Not so here. My claims are not whimsical or fanciful. I am faced with serious powerful players that manipulated and abused the legal system. Access to the electronic filing system will level the playing field for all pro se litigants throughout the land.

Wherefore, premises considered, Petitioner moves this honorable court to reconsider my Petition for Writ of Certiorari, and for Rehearing on the same, and any other such relief this court may grant.

Dated December 12th, 2018

Respectfully submitted,

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**CERTIFICATE OF COMPLIANCE
WITH SUPREME COURT RULE 44.2**

I hereby certify that my Corrected Petition for Re-hearing is limited to intervening circumstances of a substantial or controlling effect and to other substantial grounds not previously presented and that it is presented in good faith and not for delay as required by Supreme Court Rule 44.2.

I declare under penalty of perjury that the foregoing is true and correct.

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