No. 18 / 5429

IN THE
SUPREME COURT OF THE UNITED STATES

Michael Garry. Petitioner

V

American Standard Trane U.S. Inc., "et al"
Respondents

On Petition for a Writ of Certiorari, In Forma Purperis To The Supreme Court of Wisconsin

(Name of Court that last ruled On the Case)

Supplementary Brief under This Courts Rule 15.8

Michael Garry
28 Frigate Crescent
Sun Valley
Fish Hoek 7975
Cape Town
South Africa
Email :- mgarry@mweb.co.za.
Tel. :- 27-21-7854070

Table of Authority

Supplementary Brief

The petitioner asks this court to accept this supplementary brief in accordance of The Supreme Court rule 15.8, 18.1 and 25.5.

This supplementary brief is submitted in calling attention to a case and other intervening matter, not known to the Petitioner at the time of his last filing.

The petitioner would like to bring to the attention of this court, that the Respondents American Standard Trane U.S.Inc., Re., The Trane Company, Travelers Insurance, Ernst & Young are not acting, under rule 29.3 of this court, in the spirit of justice and fair play according to that rule. " Ordinarily, service on party must be by a manner at least as expeditious as the manner used to file the document with the court."

The Respondents American Standard Trane U.S.Inc., Re., The Trane Company, and Travelers Insurance, submitted a waiver that they do not intend file a response. Dated August 29, 2018.

At the date of posting of this supplementary brief, the Petitioner, Garry, has not received any acknowledgment, of the waiver, by Respondents that they do not Intend to file a response.

The fact that the Respondent do not intend to file a response which under rule 15.2 of this court which states :-
" In addition to presenting other arguments for denying the petition, the brief in opposition should address any perceived misstatement of fact or law in the petition that bears what issues properly would be before the Court if certiorari were granted."

" Counsel are admonished that they have an obligation to the Court to point out in the brief of opposition, and not later, any perceived misstatement made in the petition. "

It can be seen that the Respondents intention to waiver their right, not to respond, is a huge indictment of their violations of the Federal Rules of Procedure and Evidence pertaining to Rule 26 under the rules of Disclosure, and Federal Rule 7.1, Corporate Discovery.

The information required by Rule 7.1(a) reflects the " financial interest" standard of Canon 3C(1)(c) of the Code of Conduct for United States Judges."

As the Petitioner has asserted to this court, and from the record, to a Petition to the State of Wisconsin Labour and Review Commission in 1996, shows the predicament the Petitioner has experienced, of making timely petitions, due to the virtually, none existence of the postal service in South Africa from U.S.A.

This is the reason, the Petitioner has to use, the very costly manner of sending his Petitions and reply's by commercial carrier to comply with rule 29.2 of this court

/

Garry asserts that the letter from the clerk of the court dated August 1, 2018, Informing him his Petition has been placed on the docket, has still not arrived, at the posting of this supplementary brief.

Because of his financial constraints, he was unable to obtain the services of legal counsel, to pursue his claim to the Wisconsin Circuit court and his appeal to the Wisconsin Appeals Court.

Garry proceeded as a Pro Se, indigent litigant, however because of the of lack of legal knowledge or any expertise, he was denied a proper understanding or exposure of Due Process clause of the 5th and 14th Amendments, and was unable to vigorously pursue his case.

" Pro se litigants deserve, of course, the minimum due process rights to which all other litigants are entitled. The most significant of these rights is an opportunity to be heard, "granted at a meaningful time and in a meaningful manner."1 '

Other minimum due process protections include the requirement of adequate notice, the right to a neutral and detached decision maker, the right to hire counsel, the right to present evidence and confront and cross- examine witnesses, and the right not to be subjected to the jurisdiction or laws of a forum with which one has no significant contacts. 0 2 As the Court noted in Logan v. Zimmerman Brush Co."

"The Court has maintained that "the very nature of due process negates any concept of inflexible procedures, universally applicable to every imaginable situation.'"

Due Process is not "unrelated to time, place and circumstances," but rather is "flexible and calls for such procedural protections as the particular situation demands.

This comment concludes that, at a minimum, a civil pro se litigant is entitled to a liberal construction of his pleadings as is already required under 20' Logan v. Zimmerman Brush Co., 455 U.S. 422, 437 (1982), quoting Armstrong v. Manzo, 380 U.S. 545, 552 (1965). See also Little v. Streater, 452 U.S. 1, 5-6 (1981).102 , 61 N.Y.U.L.Rev. at 483 and n.166-72 (cited in note 51). 103455 U.S. 422, 437 (1982).
14 Wolff v. McDonnell, 418 U.S. 539, 560 (1974), quoting Cafeteria Workers v. McElroy, 367 U.S. 886, 895 (1961).10I Little, 452 U.S. at 5, quoting Joint Anti-Fascist Refugee Committee v. McGrath, 341U.S. 123, 162 (1951), and Morrissey v. Brewer, 408 U.S. 471, 481 (1972). 104 Mathews v. Eldridge, 424 U.S. 319, 335 (1976).1988]

Procedural Due Process Rights as in Haines v. Kerner, This liberal construction will in turn facilitate the court's efforts to determine what further procedural protections the due process balancing test requires.

A refusal to construe pleadings flexibly, as required under Haines, is tantamount to withdrawal of that meaningful opportunity. For instance, an otherwise meritorious claim could be dismissed under Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim.

The very point of the Haines approach is to determine if, when a pro se civil plaintiff has not said the "magic words" (or has said the wrong words), a cause of action exists. Even though the number of meritorious pro se complaints may be small, it is essential that these complaints be recognized.

The protection of federal court litigants' interest in a meaningful opportunity to be heard while litigating is a central aspect of procedural due process.

A Due Process Standard for Leniency. In summary, pro se litigants in civil cases in federal court are entitled under the due process clause to have their pleadings liberally construed by the courts under the Haines v. Kerner standard.

The Supreme Court has mentioned in dicta in the criminal context that pro se status does not mean that a litigant is free to ignore relevant rules of procedural and substantive law.

This position is justifiable in criminal cases on constitutional grounds. It is not, however, justifiable in civil cases, where many litigants appear pro se not because they prefer to do so, but because they cannot afford counsel.

Modern procedural due process juris- prudence requires, at the very least, that courts should give the pro se civil litigant a liberal construction of his pleadings.

The court should then determine what further process is due, based on the individual facts and circumstances of the case. In short, in civil cases, there sometimes may be a "license not to comply" with procedural requirements.

The only across-the-board special treatment which the Supreme Court has guaranteed pro se litigants, apart from the due process rights accorded all litigants in civil cases, is the right to have courts liberally construe their pleadings.

The court should then determine what further process is due, based on the individual facts and circumstances of the case, which in this case show from the record that there were numerous violations of the Rules of Procedure and Evidence, by the Respondents, and the Abuse of Discretion or a Usurpation of Power by Wisconsin Appeals Court and other lower Wisconsin Courts and the respondents American Standard Trane U.S.Inc., Travelers Insurance and Ernst & Young.

In Powell v. Alabama 7, an early right to counsel case, the Supreme Court wrote:

" Even the intelligent and educated layman has small and sometimes no skill in the science of law. . . . He lacks both the skill and knowledge adequately to prepare his defence, even though he have [sic] a perfect one. He requires the guiding hand of counsel at every step in the proceedings against him. Without it, though he be not guilty, he faces the danger of conviction because he does not know how to establish his innocence. If that be true of men of intelligence, how much more true is it of the ignorant and illiterate, or those of feeble intellect."

See Procedural Due Process Rights of Pro Se Civil Litigants by Julie M. Bradlowt

The Courts have authority under Sua Sponte in the Interest of Justice, to ensure that they always act, in as far as the law, in the Interest of Justice.

As in United States v. Ohio Power Co. 353 U.S. 98 (1957) whereby the Supreme Court unanimously vacated Sua Sponte in the interest of justice.
Which in Syllabus 2 they stated :-
" The interest in finality of litigation must yield when the interest of justice would make unfair the strict application of the Rules of this Court. P. 353 U. S. 99."

When seen in context to the articles in "Shell Companies and Tax Avoidance and Evasion In Shell Companies " by Marina Kinner, Siena College and Leonard W. Vona, CPA, CFE, which in pertinent part they say :-

"Shell companies are often associated with fraud. Although they are legal entities that do have a legitimate function in business operations, shell companies are also utilized by criminals to facilitate fraudulent activities.
A shell corporation is a company which serves as a vehicle for business transactions without itself having any significant assets or operations.
Shell corporations are not in themselves illegal, and they do have legitimate business purposes.

However, they are a main component of the underground economy, especially those based in tax havens

They may also be known as international business companies, personal investment companies, front companies, or "mailbox" companies.
Shell companies are also used for tax avoidance. The company does its international operations through this shell corporation, thus not having to report to its country the sums involved, avoiding any taxes".

See also Tax Havens:- International Tax Avoidance and Evasion, by Jane G. Gravel, Senior Specialist in Economic Policy, January 15, 2015,

and :- Congressional Research Services, and the United States Senate Permanent Subcommittee on Investigations. Re. Off Shore Tax Evasion.

It shows a further indictment, of the Respondents intention, to mislead the courts by their wilful misrepresentation, in their determination to win this case by any means.

This new evidence that was submitted by the Respondents over a year after the court hearing, was in contradiction to the "Alleged" one page Arabic contract, that they had previously, illegally submitted.

This alleged new evidence now asserted that Garry's employer was Trane SA, which in essence was a shell company registered in a tax haven country, Switzerland, which was constituted by American Standard in collusion with Ernst & Young accountants, who administered this Shell Company from an address in Switzerland.

In the **People of the State of New York, Respondent, v. Phillip RIBACK, Appellant. Decided: December 01, 2009,** it was asserted that the judge had erred,

in that his summation, was a misstatements of fact and law, the learned trial judge erred in law, in his directions, and failed to take into account all relevant considerations before coming to his findings that the appellant was not prejudiced or that there was no danger of him being prejudiced or the trial undermined.

Likewise, both Judge O'Brian, in Garry's Petition to the Wisconsin Circuit Court for a Judicial Review of His Case, and Judge Phillips in his Hearing at the Wisconsin Labour and Industry Court, erred.

Their summations were misstatements of fact and law, the learned trial judges erred in law, in their directions, and failed to take into account all relevant considerations before coming to their findings, that the appellant was not prejudiced or that there was no danger of him being prejudiced or the trial undermined.

It can be seen from the record, that compelling reasons exist, as set forth, in his " Reasons for the Petition For A Writ Of Certiorari," and the intervening matter, not known to the Petitioner, at the time of his last filing, for this court to exercise its supervisory powers and grant the review.

In Hollingsworth, 558 U.S. at 196 (citing Rule 10(a)) it said, "This Court has a significant interest in supervising the administration of the judicial system and its interest in ensuring compliance with proper rules of judicial administration is particularly acute when those rules relate to the integrity of judicial processes."

This Court's intervention is critical to ensure the integrity of the Appellate Process and to curtail the Wisconsin's Lower Courts and the Respondents American Standard Trane US Inc., Travelers Insurance, and Ernst & Young from their wilful refusal to comply with this Court's authority, rules and precedents, and in denying The Appellant Garry, his civil and humans rights under the 14th Amendment of the United States of America.

For the reasons set forth above, Garry respectfully asks this court to grant this Petition for a Writ of Certiorari.

Respectfully Submitted and Signed Michael Garry

Dated. September 6, 2018