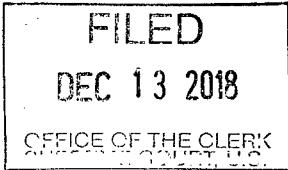


ORIGINAL

18-7363  
No.



IN THE

SUPREME COURT OF THE UNITED STATES

Christopher David Krohe — PETITIONER  
(Your Name)

VS.

Zandra Steinhardt — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Court of Appeals to and for the Ninth Circuit  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Christopher David Krohe  
(Your Name)  
D- 17 - B - 201 - 2 L, Mule Creek State Prison  
P.O. Box 409099

(Address)

Tone, CA, 95640  
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. If the district court should not have denied case on its resolution of facts presented. &
2. If the Ninth Circuit Court of Appeals should not have denied appeal on facts presented on case,  
" what remedy is available for petitioner" ?
3. In the above civil rights action & suit for money unaccounted , and or missused can the above entitled U.S. Supreme Court adopt information independent to address all issues presented?
4. In order to uphold the rights of the petitioner "Does the United States Constitution protect petitioner from claim against respondent "?
5. If so may the court reverse vacate ,and amend the Federal District Court's opinion?

## LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Petitioner Christopher David Krohe ,CDCR number [AB6295]-

P.O. BOX 409099 IONE, CA 95640

Respondent Zandra Steinhardt, 8495 N. First Street

Fresno , CA , 93720

## TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	1
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED .....	2
STATEMENT OF THE CASE .....	3
REASONS FOR GRANTING THE WRIT .....	4
CONCLUSION.....	40

## INDEX TO APPENDICES

	MANDATE	
APPENDIX-A	Denial for rehearing filed , dated 10-12-2018	E- 1/n1
APPENDIX-B	MEMORANDUM DATED, 6-21-2018 U.S. 9th Cir. Court Denial in Ninth Cir. U.SU Court of Appeals , Opinion.	E- 2/n2
APPENDIX-C	ORDER , First denieddated 3-28-2018 U.S.9thCir.Court	E- 3/n4
APPENDIX-D	Denial in Eastern District Court of California , Opinion.	E-4/n5
	R & R of Judge Magistrate District Federal Court.	E-5/n6

TABLE OF AUTHORITIES CITED

1	Strickland v. Washington , 446 U.S. 688	P. 2
2	Wilson v. Mintezes, 761 F.2d	P. 9
3	Powell v. Alabama , 287 US 45 , 53 (1932)	, 9
4	Glasser , 315 U.S. / US v Harvey , 814 F.2d 905 (CA 1987 )	p.8
5	Chandler v. Fretag , [ 348 U. S. 3]	p. 10
6	Jackson v. Tate 648 F.3d 729 (9th Cir. 2011 )	. . . . p. 11
7	Myrtle Lyn Prewitt v. Miss. Univ. 433 Fed Apx 279 ; U.S. App.	. . . . p. 11
8	Baker v. McCollan , 433 U.S. 137 , 140, 99 433(1979) quoting Landrigan v. Warwick :: (1980 )	. . . . p. 11
9	Crow v. Abraham , 86 , Or 99 167 P. 590, 591	. . . . p. 12
10	Marshal 547 U.S. at 311	. . . . p. 12
11	Campi v. Chirco Trust ODT 02-11-92 , 223 Fed. Appx. 584 , 585 (9th Cir.p.	12
12	Merrill Lynch , Pierce, Fenner &Smith, Inc.v.Manning(2016)136 S.Ct.	. . . p. 14
13	Bowman v. Monsanto Company 568 U.S. 936;133	. . . p. 15
14	Gunn v. Minton	. . . p. 15
15	Kokkonen v. Gaurdian Life Ins.Co. of America,511 U.S. 375	. . . p. 15
16	Osborn v. Bank of the United State, 9wheat,738,823-824,6 L.Ed.(1824) ..p.	15
17	Powell v. McCormick , 395 U.s. 486	. . . p. 15
18	Plaintiff v. Wuhan , 619 Fed. Agpx.	. . . p. 16
19	Johnson v. City of Shelby-U.S.-,135	. . . p. 16
20	Ashcroft v. Iqbal, 556 U.S.	. . . p. 16
21	Bell Atlantic Corp. v. Twombly , 550 U.S. 544	. . . p. 16
22	Common Wealth Trust v. Bradford Supra (303 US 281 ....)	. . . p. 18
23	Unified States v. Klein Supra ( 303 US 281, 82 ....)	. . . p. 18
24	Merdith v. Winterhaven , 320 US 228, 88	. . . p. 18
25	Sutton v English 246 U.S. 199, 208	. . . p. 18
26	Markham 326 U.S. ,	. . . p. 18
27	Ankenbrandt , 504 U.S. at 703 , 112 S.ct. ....	. . . p. 18
28	Stein v. Marshal 180 2 LED 2D 475	.19,20.21,22
	Hopkins v Walker , 244 U.S. 486 , ...	. . . p. 19
	Waterman , 215 U.S., ....	. . . p. 19
	Waterman v Canal - Louisiana Bank and Trust 215 US 33...	p.20

Table of Authorities cited Cont.

1	Dulce v. Dulce ::223 F.3d 143;	p. 20
2	Peacock v. Thomas, 516 U.S. 349....	p. 21
3	Carlo C. Gelard Corp.v. Miller Brewing Co. (1976, DC NJ) 421 FSupp	p. 21
4	Goodman v. Poland (1975)	p. 22
5	America v. Gibbs 383 U.S. 715...	p. 22
6	Strong v. Repide , Supra , 213 U.S. at 433...	p. 23
7	Kroger Tex.L.P. v. Suberu, 216 S.W. 3d	p. 24
8	Granberry v. Greer , 481 U.S. 129, 131 ...	p. 24
9	Mayberry v. Arthur T. Prasse	24,25
10	Lane v. Wilson 1939, 307 U.S.	p. 25
11	Cooper v. Hutchenson 184 F. 2d 119	p. 25,26
12	Douglas v Jeanete [319*U.S. 161]	
13	Mayberry v. Prass	p. 25,26
14	Sheridan v. Williams	(9Cir.1964)p. 26
15	Lawson v. Prasse ,	(1964) p. 26
16	Mayberry v. Maroney	(1968) p. 26
17	Bavers v. Heisel	(1966) p. 26
18	Whitley v. Hunt 158 F.3d 882;(1998 U.S.)	p. 26
19	Horton v. Cockrell (1995)	p. 26
20	Jimenez v. Quarterman , 555 U.S. 113,	p. 27
21	Hardt v. Reliance	(2010) p. 27
22	U.S. v. Gonzales-Lopez,548 U.S.	p. 30
23	McCulloch, 17 U.S. 316,/ U.S. v. Gonzales	p. 30
24	Drysdale , Charterea v. United States 491 U.S. 617	p. 30
25	District of Columbia v. Heller	(2008) p. 31
26	Crawford v. Washington, 541 U.S   36	p. 31
27	"Cleveland-Perdue v. Brtsche"	p. 40
28	Rule 56(b) Fed. R. Civ. P.	p. 31
29	Cal Rule 7.1054 State (b)	p. 3
30	Cal Rule 7.903	p. 3
31	Probate (10) Code	p. 3
32	Courts § 502	p. 15
33	Rule 15 Fe. R. Civ. P.	p. 17
34	Courts § 717	p. 17
35	Courts § 11	p. 18
36	Courts § 240	p. 22
37	28 USCS § 1651 All Writs Act	p. 39

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

[X] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

[X] reported at NO. 17-17259/Lexis 7082; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

The opinion of the United States district court appears at Appendix E to the petition and is

[ ] reported at No.: 1:17-cv-00878-DAD-MHS/Exhibit 121031; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

A timely motion for rehearing was denied on Oct. 12, 2018  
[ ] For cases from state courts:

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

### Jurisdiction

Jurisdiction is invoked under 28 U.S.C. § 1254(1).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves Amendment XIV to the United States Constitution, which provides:

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside.... enforce any law which shall abridge the privileges or immunities of citizens of the United States; ... deprive any person of life, liberty, or deny to any person within its jurisdiction the equal protection of the laws.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

The Amendment is enforced by Title 42, Section 1983, United States Code: Every Person . . .

Amendment VI which provides:

"meaningful opportunity to be heard" by removing obstacles to their full participation in judicial proceedings. The acts and conduct of Respondents on or about from Nov, 2016 - Oct., 2017, violated the eighth amendment to the United States Constitution, Fourteenth Amend. due process clause, and the counsel clause of the Six Amendment's effective assistance clause-Strickland v. Washington , 446 U.S. 688 , The constitution of the United States, Article III , Section 2 , Paragraph 3 , provides."

In all criminal prosecutions, the accused shall enjoy the right...

to have the Assistance of  
Counsel for his defense."

U.S. Const. Amend.

VI

## STATEMENT OF THE CASE

Petitioner origanaly filed this case as a civil rights action under 42§1983 brought by a state prisoner who alleges that he was unlawfully denied his United State Constitutional Sixth Amendment right and civil rights a Fourteenth Amendment right. When deprived a large sum of money \$32k, that he sent from his inmate trust account to respondent for deposit in his mother's f/b/o "IRR Special Needs Trust" of Marla Krohe. By the denial of upon request for cash to retain an attorney caused by the respondent Zandra Steinhardt "Zandra"from here on out , when believed by verbal agreement that she was a responsible TRUSTEE for "IRR Special Needs Trust of Marla Krohe" who made promise to retain attorney for representation to the United States Court of Appeal to and for the Ninth Circuit. For request for a COA . When the time began to run out almost near deadline refused to keep her word and be honest and retain counsel.

Petitioner who is sole beneficiary only child born to Marla Krohe, discovered an amount unaccounted for funds appeared in an evaluation of the accounting for the "Trust". The action is in conflict of verbal agreement & Zandra agreed to Trust law rules / Rule 7.1054(b)7.903(4) Probate 10 code [recieves money to wich he is not entitled he becomes the trustee of that money for the one justly entitled to it.

Cal.Civ.code §2224. District court denied case , but with reguards to see: 27 L.ED 986, 109 U.S. Smith v. Mcneal "federal courts may hear suits by claimants against..."

B. Statement of Facts

1 The petitioner alleged in a declaration of his case  
2 first in a §1983 denial of civil rights claim to the  
3 district federal court explained that he mailed funds from  
4 his account " Inmate Trust Account" in California state  
5 prison -Mule Creek State Prison- C.D.C.R. in the amount  
6 of \$41,700.00 in the form of a state issued money order.  
7 See exhibit with copy of money order made out to IRR  
8 Special Needs Trust Marla Krohe, exhibit A . Of his  
9 Mother Marla Krohe left entirely to him ,Christopher  
10 Krohe her only child. Zandra Steinhardt the Trusttee  
11 whom is first cousin to Marla Krohe family by a blood  
12 relative ,made a verbal agreement to him that if he sent  
13 the money order that when he needed her to retain counsel  
14 for the Ninth Cir. Court of Appeal for him that should if  
15 and when the time came that she would upon his request. He  
16 had her pay 1) \$5k to lawyer Rich Pfeiffer for his legal  
17 work and fee agreement made before he sent the money &  
18 2) 5k also to Attorney Robert Beles for his  
19 work and fee on his post conviction federal habeas writ.  
20 Case # 8:16-cv-00131-JGB-KS was ,dismissed and petitioner  
21 had to file a notice of appeal for case no. 16-56398 to  
22 the 9th Cir. court of appeal. He sought by phone and writ-  
23 ting to Zandra Steinhardt "Zandra" from here on out, to  
24 assist himwith forwording him attorney names and phone  
25 numbers of any post conviction attorney that speciallized  
26 in the 9th Cir. So that he could try to call and find out  
27 weather or not he wanted to retain one of them. Zandra  
28 refused to mail any names & phone numbers of any attorney

1 that made it impossible for him to pick an attorney of  
2 his choice out to retain . He had found out about 10  
3 qualified attorneys and requested that she try to talk to  
4 them and she would not. Maybe one or two gave her a call  
5 and she told them no she shouldn't retain them. The book in  
6 the prison law library the California Lawyer Digest book  
7 only list attorneys A-Z in order by name, but doesn't say  
8 what type of law that they practice. He explained this to  
9 her and she new that it is hard for him to find the right  
10 attorney. Without Zandra to assist him in sending names  
11 like she had said that she would send but didn't. It  
12 was very hard for him to find a lawyer. The few he did know  
13 of he sent Zandra the list of names. Asked her to retain  
14 for COA to the 9th cir. and set up for one to talk to,  
15 that she thought to her sounded like they were interested  
16 the most to take case. (see Exhibit D-D1 )

17 Time deadline to file COA was near and Krohe  
18 thought to try on his own because Zandra refused to attempt  
19 to retain Counsel for him out of the money he believed th-  
20 ere for for him. His first attempt was unsuccesful & mid -  
21 way between when his second request for COA was due it  
22 was apparent he should inform the court of his issue with  
23 Zandra and the money he sent her .[See exhibit A-4] copy of  
24 Check made out to Christopher Krohe from Allianz that was  
25 sent to his account at Mule Creek. Krohe had an account in  
26 a Bank outside but Zandra closed that account without inform  
27 him of doing so or he would of made out the money order to  
28 his bank to deposit in his account on the public bank account

1 he had before going to prison. Weather or not the funds  
2 went to "TRUST" or personal bank account didn't matter.  
3 The money needed to be ready for payment at a moments  
4 notice and readily upon request, regaurdless if he sent  
5 the money made out to "TRUST" Zandra shouldn't of broke  
6 verbal agreement because Krohe paid taxes on the money in  
7 his name and she told him that she would keep her word.  
8 He ask the Ninth Cir court of appeal to hear a motion to  
9 order Zandra to produce the "TRUST" account bank statement  
10 and the only proof of the funds he sent he had was a copy  
11 of his inmate trust statement that showed the money order  
12 mail out. He explained to the court and gave documentation  
13 of his §1983 civil right claim and explained that he was  
14 not being treated fair and the court should order her to  
15 produce the documents to show and explain about the money  
16 that once proven order her to retain counsel for his case.  
17 He explained to the District court and appeal court sent  
18 copies to both court's and requested for hearing to both  
19 to review that a hearing be set to review issue for his  
20 denied his funds for a lawyer through Zandra denying to  
21 retain counsel from the funds sent in the "TRUST".  
22 1) When Zandra took hold of the money she should have still  
23 afforded to retain an attorney upon request because it is  
24 his right by law to have been able to if money exist to  
25 have that attorney of his choice even for post trial .  
26 2) Zandra gave an agreement even if was verbal by phone to  
27 that she made a promise to keep to retain attorney.  
28 3) Under the Sixth Amendment being that he sent the money

1 he paid taxes on from his account, he has the right to  
2 attorney of choice. (see Exhibit B-B1)

3 Court of appeal refused to arrange type of financial hear-  
4 ing or extend time for answer for district court to order  
5 a ruling on case. The district court should not have been  
6 able to dismiss petitioner's objection to Judge Magistrate  
7 order to dismiss. This type of judgment should only be if  
8 record before the court shows "that there is no genuine  
9 issue as to any material fact and that case involved is  
10 frivolous". The court made no research into fact finding  
11 that if true motion for discovery of "Trust" bank statement  
12 would prove civil right claim and the money should be  
13 done so as to retain counsel for post -trial issue.

14 Case was dismissed and petitioner filed to Appeal court  
15 by then second request for COA was denied. He then further  
16 requested the court hear his case presented here against  
17 the respondent. Case No. 17-17259 was filed with documents  
18 and exhibits that gave more evidence of wrong doing be the  
19 accounting of the "Trust" in a court document Zandra filed  
20 to be terminated from the trust as trustee.

21 Court document was inaccurate and money showed that in  
22 the document that funds were unaccounted for. Missing  
23 money if lost that Zandra by law is accountable for and  
24 should have to pay back.

25 The money was not to be wasted in that way and funds from  
26 "Trust" unaccounted for or missappropriated appeared to be  
27 over the 32k amount asked for originally instead of the  
28 funds be ordered to have to be reimbursed for a lawyer

(see Exhibit A)

1 out of the "Trust" he explained that Zandra should be held  
2 accountable that the denial of the lawyer had denied him  
3 of his rights and that she was not immune from having to  
4 payback for the funds that the accounting didn't show and  
5 was missing and that there was money missappropriated when  
6 it was lost due to her risky investments that she made,  
7 combined and fully explained of issue to the court the  
8 amount total was over the 32k and that without the document  
9 sent to him for the accounting that was around Septem.18,  
10 2017 or served to him. He had no way of knowing that the  
11 money was gone out of the trust. (see exhibit C) "for accountant to calculate"  
12 & A-(a)  
13 This made it impossible to present to the district court  
14 the accounting due to document was served between original  
15 filed case and appeal. The only resort that he had at the  
16 time was to explain what he had discovered and ask for the  
17 Appeal court to grant him relief. The Ninth Cir. Court of  
18 Appeal denide case and didn't infact take notice of issue.  
19  
20 Claim is for a "sum certain, or for a  
21 sum wich can by computation be made certain", In order for  
22 the court to determine the amount to be accurate. I offer  
23 my solution to resolve the issue that if according to my  
24 calculations if they are inaccurate than I should have to  
25 pay the court out of own money still in "Trust" to an  
26 accountent the court were of normally use for calculating a  
27 type of issue like this and that if my calculations are  
28 to be correct than Zandra should have to if the court is  
to rule in my favor order Zandra to have to pay the cost  
for the court to have to have the accountent go over it.

## REASONS FOR GRANTING THE PETITION

42 U.S.C. § 1983 Civil action for deprivation of any statute ordinance, regulation, custom, or usage , of any state or territory or the District of Columbia, subjects, or cause to be subjected , any citizen of the United States or Other person within the jurisdiction there of to the deprivation of any rights,privileges, or immunnities secured by the constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceedings for redress, except that in any action takenbrought against a judicial officer's for an act or omission taken in such officer's judicial capacity , injunctive relief shall not be granted unless a declaratory decree was violatedor declaratory relief was unavailable. For the purpose of this section, any act of congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

Counsel of Choice, when financially able.

Wilson v. Mintzes, 761 F.2d 275 (CA 6 1985)"should be afforded a fair opportunity to secure counsel of his own choice," Powell v. Alabama, 287 US 45, 53 (1932)"may so offend our concept of the basic requirements of a fair hearing as to amount to a denial of due process of law contrary to the Fourteenth Amendment..." Glasser,315 U.S at 70.Also see Counsel of choice from one's resources U.S. v. Harvey, 814 F.2d 905 (CA 4 1987) There is,beyond the minimal or basic sixth amendment right to some counsel, a

1 component right-concededly qualified to counsel of  
2 one's choice.[omitted] This means , in general ,aright to ret-  
3 tain private counsel of choice out of one's private resources,  
4 and up to the limit of those resources, free of government in-  
5 terference.[omitted.]Thus ,while it has presumably never been  
6 attempted, it seems clear that any legislative attempt by gen-  
7 eral rule directly to put a cap on what persons accused of  
8 crimes could pay privately retained defense counsel , or to  
9 dictate the choice of private counsel by special qualifications  
10 ,or however, would be unconstitutional.

11 Hence if Zandra were to put a cap for even post trial lawyer  
12 would be unconstitutional.In Chandler v. Fretag, [348 U.S. 3]  
13 Chandler is squarely on point and controlling. Under those fac-  
14 ts , the statement of this Court in Powell v. Alabama, which  
15 provided the basis of our holding in Chandler, is wholly app-  
16 licable:"If in any case, civil or criminal, state or federal  
17 court to refuse to hear a party by counsel, employed by and  
18 appearing for him, it reasonably may not be doubted that such  
19 a refusal would be a denial of a hearing, and, therefore, of  
20 due process in the constitutional sense".

21 In the constitutional sense would it not therefore be a denial  
22 of such a refusal arbitrarily to refuse petitioner if demonst-  
23 rated could afford to retain counsel and had some sort of an  
24 obsticale that he needed the court to hold a financial hearing  
25 to resolve issmeand that at face would appear that claim were  
26 legitimate he was as a matter of possible vindictiveness being  
27 subjected to by Zandra by withholding funds for a lawyer. A  
28 denial of a hearing .

1 Any statute not mentioned is not waived and any  
2 not mentioned here is not a waiver and should still be relied  
3 on if it pertains to case. He does state that Feres Doctrine  
4 and Westfall act apply to § 1983 or Bivens claim In Jackson  
5 v. Tate (9th Cir. 2011)648 F.3d 729, The Ninth circuit held  
6 that the Feres doctrine applies to constitutional claims br-  
7 ought under 42 U.S.C. § 1983 and Bivens, as well as tort  
claims. claims brought under the federal Tort Claims Act,...

8 Myrtle Lyn Prewitt v. Miss. State Univ. 433 Fed. Apx.279;  
9 2011 U.S. App. Lexis 15040, no. 10-60551

10 district court motion to allow retaliation claim, Parties  
11 unable to reach agreement-Prewitt appealed to district judge,...  
12 ,wich district judge dismissed, see "we do not dispute that  
13 Prewitt's litigation techniques have been unduly burdensome  
14 ... .,filing of inappropriate motions, untimely raising of  
15 issues ,... . judgment is vacated and the case is remanded.  
16 As I could seem that this request is burdensome and that  
17 I may have filed inappropriate motions,untimely raising of  
18 issues . If possible may I have the bennifit as of on some  
19 cases like one mentioned here of the court to consider on  
20 the entire history and explanations to lower court's and now.

21 (T)he first inquiry in any § 1983 suit. ... is whether the  
22 plaintiff has been deprived of a right "secured by the consti-  
23 tutional and laws. "Baker v. McCollan, 443 U.S. 137, 140, 99  
24 S.Ct. 2689,2692, 61 L.Ed. 2d 433(1979)" quoting :628 F.2d 736  
25 ::Landrigan v. Warwick:: (1980) see opinion; The judgment  
26 dismissing the action against the city of Warwick and the  
27 town of East Greenwich is affirmed; the judgment is otherwise  
28 vacated and this action is remanded with directions that the

1 district court retain jurisdiction over plaintiff pendent count  
2 and section 1983 count... . If the court should seem fit to  
3 remand case back to district court than pendent section 1983  
4 count than if the court deems so than so be it. Any way that  
5 this court would decide is proper should be some kind of  
6 relief. The court could if so chose to remand case and ,or  
7 decide to hear case in full, however the court wants is the  
8 result and petitioner is open to what the court tells him to.  
9 A"Judgment on the merits" is one that decides whether or not  
10 the plaintiffs legal rights were violated by respondent. The  
11 "merits" have traditionally been defined as "the real or  
12 substantial grounds of action or defense as distinguishe  
13 from matters of practice, procedure, jurisdiction or form."  
14 Clegg v. United States 112 F.2d 886, 887(1940) Haney v. Neace  
15 Stark CO.,109 Or. 93,216 P.757 : Crow v. Abraham, 86 Or 99,  
16 167 P. 590, 591: The understanding that case here does have  
17 "the real or substantial grounds", may have merit and if  
18 "is one that decides whether or not plaintiffs legal rights  
19 were violated". Fact of matter at hand calls for response.  
20 Also to consider [The probate exception"Does not bar federal  
21 courts from adjudicating matters outside [the probate or annul-  
22 ment of a will, the administration of a decedent's estate, or  
23 the disposing of property in the custody of a state probate  
24 court] and otherwise within Federal Jurisdiction, "Marshal,  
25 547 U.S. at 311; & That case involved allegations of "Fraud,  
26 undue influence, and breach of Fiduciary duties." Campi v.  
27 Chirco Trust UDT 02-11-97,223 Fed. Appx. 584, 585 (9th Cir.  
28 194 L.Ed. 2d 671 (2016).]

1 Dismissal is proper only if there is either  
2 (1)the lack of a cognizable theory; or(2)the absence of suffi-  
3 cient facts alleged under a cognizable legal theory. The court  
4 must decide what inquiry into facts stated in the complaint and  
5 the documents either attached to or incorporated in the compla-  
6 int , but the court also may consider matters in the record of  
7 the case, and exhibits attached. Matters of which it may take  
8 notice. Fed.R.Evid.201(f)Matters of public record, items  
9 appearing in the record of the case , and exhibits attached to  
the complaint also may be considered.

10 The court must accept as true all material allegations  
11 in the complaint as well as reasonable inferences to be dra-  
12 wn from them. The well - pleaded facts must be reviewed in the  
13 light most favorable to the plaintiff. Rule 201

14 Judicial Notice of Adjudicative facts (e) on  
15 timely request, a party is entitled to be heard on the propriety  
16 of taking judicial notice and the nature of the fact to be not-  
17 iced. If the court takes judicial notice before notifying a party  
18 ,the party, on request, is still entitled to be heard. (c) Taking  
19 Notice. The court (1) may take notice on its own; .

20 To Make Out a Valid Claim Under § 1983,a plaintiff must allege and  
21 eventually prove that :(i) the conduct complained of was commi-  
22 tted by a person acting under color of state law;(ii) this con-  
23 duct deprived a person of constitutional rights; and (iii)there  
24 is an actual connection or link between the actions of the def-  
25 endants and the deprivation allegedly suffered by the plaintiff.

26 Title 42 USCS§ 2000a- 6(a) The District Courts of the United  
27 States shall have jurisdiction of proceedings instituted pur-  
28 suant to this title[42 USCS §§ 2000a- 2000a-6]and shall exercise

1 the same without regard to whether the aggrieved party shall  
2 have exhausted administrative or other remedies that may be  
3 provided by law. The Jurisdiction of the original civil action  
4 arising under the constitution for a denial of a civil right if  
5 was afforded the opportunity of the claim by on the face[the  
6 Federal district courts have original jurisdiction of all civil  
7 actions arising under the constitution, laws, or treaties of the  
8 United States[28 U.S.C.S. § 1331] see, Merrill Lynch, Pierce,  
9 Fenner & Smith, Inc. v. Manning(2016)136 S.Ct. 1562,194 L.Ed  
10 2d 671,683,545 U.S. 308 or,314 or,125 S.ct.2363 or,162 L.Ed 2d 257.  
11 Grable & Sons Metal Prods., Inc. v. Darve Eng'g & Mfg.(2005)"if  
12 the claim necessarily raises a stated federal issue, actually  
13 disputed and substantial, that a federal forum may entertain  
14 without disturbing any congressionally approved balance of fed-  
15 oral and state judicial responsibilities that are novel or out  
16 of the ordinary, or when procedural to an apparent just outcome  
17 arise, the federal courts retain the statutory power and the  
18 duty to "Dispose of the matter as Law and Justice require.]"  
19 see also Marquard v. New Penn Fin., LLC:May 31 2017 ,U.S. Dist.  
20 Lexis 82952(District courts have original jurisdiction over all  
21 civil actions" arising under the constitution, laws, or treaties  
22 of the United States." 28 USCS § 1331 according to the recent  
23 unanimous decision in Gunn v. Minton,133 S. Ct.1059,1064,185 L.  
24 Ed 2 d 72(2013), there are two ways cases can arise under fede-  
25 ral law . First, and most commonly, a case under federal law  
26 " When federal law creates the cause of action asserted." . . .  
27 Id. Second, and less frequently, a case may arise under federal  
28 law ..."

1       ".... test the Supreme Court initially laidout in Grable ..." "

2       "Grable test".Id (citing Grable,545 U.S. at 313-14"

3       In Vernon Hugh Bowman v. Monsanto Company, at al. Supreme Court

4       of the United States 568 U.S. 936;133 S.Ct.420;184 L.Ed. 2d 251;

5       2012 U.S. Lexis 7810;81 U.S.L.W. 3193 No.11-796 Oct.5, 2012

6       U.S. Supreme Court granted certiorari; 568 U.S. 133S.ct. 420,184

7       L. Ed . 2d 251 (2012)"...that maintaining the proper balance of

8       responsibility Between state and federal courts precluded releg-

9       ating state legal malpractice claims to federal court. at 568

10       U.S. 251 Gunn v. Minton." see II [2] "Federal courts are courts

11       of limited jurisdiction ," possessing" only that power authori-

12       zed by constitution and statue." Kokkonen v. Gaurdian Life Ins.

13       Co.of America,511 U.S. 375, 377, 114 S.ct. 1673, 128 L. Ed. 2d

14       391 (1994).There is no dispute that the constitution permits

15       congress to extend federal court<\*pg.79>jurisdiction to a case

16       such as this one, see Osborn v. Bank of the United State

17       ,9wheat. 738, 823-824,6 L.Ed. 204(1824);the question is whether

18       congress has done so,see Powell v. McCormack, 395 U.S. 486,515-

19       516 89 S. ct. 1944,23 L.Ed. 2d 491 (1969)." Courts §502- feder-

20       al question state law claim 3a,3b,3c,3d,3e under a United States

21       Supreme court doctrine-that in certain cases involving parties

22       that lack diversity of citizenship, a federal court will have

23       federal-question jurisdiction over state law issue in a state-

24       law claims that implicate significant federal issues-

25       the federal issue in a state law claim must be both (1)

26       actually contested, and (2) a substantial one...in such

27       circumstances, the question is whether the state-law

28

1 claim necessarily raises a stated federal issue, . . ."

2 Courts § 502- Federal question-state-law claims 6a 6b

3 Under 28 U.S.C.S. § 1331, a federal court's federal-question

4 jurisdiction over state-law claims in the absence of federal

5 right of action is not limited to being recognized only when

6 a federal constitutional issue is at stake, for (1) there is no

7 reason in text or otherwise to draw such a rough line; and

8 (2) even though federal constitution questions may be the more

9 likely ones to reach the level of substantiality that can jus-

10 tify federal jurisdiction, a flat bar on federal statutory qu-

11 estions may be the more likely ones to reach the level of sub-

12 stantiality that can justify federal statutory questions would

13 mechanically exclude significant questions of federal law.

14 Intercontinental Ind. Cor., Plaintiff v. Wuhan, 619 Fed. Appx.

15 592; 2015 U.S. A.P.P. Lexis 12998, No. 13-56136 "a district court

16 abused its discretion in denying plaintiff leave to amend to

17 allege facts that could establish statutory jurisdiction, beca-

18 use the request was reasonable and concerns of undue delay and

19 prejudice did not override the general rule favoring amendment;

20 see (it is not necessary for the pleader to state a legal theo-

21 ry for recovery on those allegations; E.g., **Johnson v. City of**

22 **Shelby-U.S.** -, 135 S.ct. 346, 190 L.Ed. 2d 309, 309-310 (2014) (per

23 curiam) (civil rights plaintiff need not plead that claim is

24 based on 42 U.S.C. § 1983). & (provided the pleading contains

25 sufficient factual allegations to state a plausible claim for

26 relief.; **Ashcroft v. Iqbal**, 556 U.S. 662, 678-679, 129 S. Ct. 1937, 173

27 L.Ed. 2d 868 (2009); **Bell Atlantic Corp. v. Twombly**, 550 U.S. 54

28 or, 570 or, 127 Sct. 1955 or 167, L.Ed. 2d 929 (2007)).

1 ( §1983 Civil action for deprivation of rights or causes to  
2 to be subjected, (any citizen of the United States or other  
3 person within the jurisdiction there of to the deprivation of  
4 any rights, privileges ,or, immunities secured by the constitu-  
5 tion and laws,) " shall be liable to the party injured in an ac-  
6 tion at law",) Effect of inept pleading of federal claim: The co-  
7 plaint's lack of reference, or erroneous reference, to federal  
8 law is not controlling. As long as the nature of the federal  
9 right is clearly set forth, Federal question jurisdiction

10 .[North American Phillips Corp. v. Emery Air Freight Corp.  
(2nd Cir. 1978) 579 F2d 229

11 Rule 15 of the Federal Rules of Civil Procedure

12 provides that the court "should freely give leave [to amend] when justice so  
13 requires." Fed. R. Civ.P. 15 (a)(2)

14 This court has recognized a probate exception, kin to the domestic relations  
15 Exception, to otherwise proper federal jurisdiction. see e.g. Markham'federal  
16 courts of equity have jurisdiction to entertain suits'in favor of creditors,  
17 legatees and heirs'and other claimants against a decedent's estate'to estab-  
18 lish their claims 'so long as the federal court does not interfere with the  
19 probate proceedings or assume general jurisdiction of the probate  
20 or control of the property. ...326 U.S., at 494,66 S.ct. 296,90 L.Ed. 256.  
21 Court, §717-Federal -jurisdiction to adjudicate rights in estate in process of  
22 administration in state court.

23 The fact that federal courts of equity have no probate jurisdiction does not  
24 preclude them from entertaining suits in favor of heirs, legatees and other  
25 claimants against a decedent's estate to establish their claims, so long as  
26 the federal court does not interfere with the probate proceedings or assume  
27 general jurisdiction of the probate proceedings or assume control of the prop-  
28 erty in control of the state court.

1 Courts § 11-Federal -Duty to decide questions of state law the mere fact that  
2 a federal district court , in the exercise of the jurisdiction with congress  
3 has confferred upon it, is required to interpret state law, is not in itself  
4 a sufficient ground for withholding relief. & similary while federal court  
5 may not exercise its jurisdiction to disturb or affect the possession of pro-  
6 perty in the custody of a state court , Penn General Casualty Co. v. Pennsyl-  
7 vania ....,it may exercise its jurisdiction to adjudicate rights in such pro-  
8 perty where the final judgment does not undertake to interfere with the state  
9 court's possession save to the extent that the state court is bound by the  
10 judgment to recognize the right adjudicated by the federal court.

11 Commonwealth Trust Co. v. Bradford.supra (297 US 619,80 L ed 924 56 S.dt. 600)  
12 ;United States v. Klein Supra(303 US 281, 82 L.ed. 843, 58 S.ct. 536)"(the mere  
13 fact that the district court in the exercise of the jurisdiction with congress  
14 has confferred upon it, is required to interpret state law is not in itself  
15 a sufficient reason for withholding relief to petitioner. Merdith v. WinterHaven  
16 ,320 US 228, 88 Led 9, 64 sct 7. ....,jurisdiction necessary and proper..."")see  
17 opinion that the cause should be remanded to the district court and jurisdic-  
18 tion should be retained by it pending the state court's decision. ...

19 Petitioner Krohe seeks an in personam judgment against Zandra Steinhardt...,  
20 not the probate or annulment of a will, and or trust. <f. Sutton v. English,  
21 246 U.S. 199, 208,38 S.Ct.254, 62 L.Ed. 664 Nor does he seek a res in a state  
22 court's custody see ~~Markham~~326U.S., at 494, 66 S.ct.<pg.489> 296, 90 L.Ed. 256  
23 . Furthermore, no "sound policy consideration" militate in favor of extending  
24 the probate exception to cover this case.(f. Ankenbrandt,504 U.S. , at 703  
25 ,112 S.ct. 2206, 119 L.Ed. 2d 468. Trial Courts both federal and state, often  
26 address conduct of the kind(Krohe )omitt "alleges". State probate courts pos-  
27 ses no "special proficiency" in handling such issues cf.id.,at 704,112 S.ct.  
28 2206, 119 L. Ed. 2d 468. (Krohe ) added

1 It is true that a federal court has no jurisdiction to probate a will or ad-  
2 minister an estate.. But it has been established by long series of decisions  
3 of this court that federal courts of equity have jurisdiction to entertain  
4 suits in favor of creditors, legatees and heirs and other claimants against  
5 a decedent's estate 'to establish their claims' so long as the federal court  
6 does not interfere with the probate proceedings, . . . . . "326 U.S., at 494, 66  
7 S.Ct. 296, 90 L.Ed. 256 (quoting Waterman, 215 U.S. , at 43, 30 S.Ct. 10, 54 L.Ed  
8 80). federal courts have jurisdiction to entertain suits to determine the rig-  
9 hts of creditors, legatees, heirs and other claimants against a decedent's  
10 estate "so long as the Federal court does not interfere with the probate pro-  
11 ceeding." Ibid

12 see 180 2LED 2D 475, 564 U.S. 462 Stern v. Marshal opinion

13 " We first recognized the category of public rights in Murray's Lessee v. Hoboken  
14 Land & Improvement Co., 18 How. 272, 15 L.Ed. 372 (1856). That "To avoid misc-  
15 onstruction upon so grave a subject; " the court laid out the principles guid-  
16 ing its analysis . Id., at 284, 15 L.Ed. 372. It confirmed that congress can  
17 not "withdraw from judicial cognizance any matter which, from its nature is the  
18 subject of a suit at common law, or in equity, or admiralty." Ibid.

19 The court also recognized that "at the same time there are matters, involving  
20 public rights, which may be presented in such form that the judicial power is  
21 capable of acting on them, and which are susceptible of judicial determination, . . . ."  
22

23 Federal - question jurisdiction will lie over state-law claims  
24 that implicate significant federal issues. E.g., Hopkins v. Wa-  
25 lker, 244 U.S. 486, 490-491, 61 L.Ed. 1270, 37 S.Ct. 711 (1917).  
26 : Appeal § 23 federal court's of appeals have jurisdiction of  
27 appeals from "final decisions" of United States District Courts.

28 28 U.S.C.S. 1291

29 Ninth Cir. Court of Appeals failed to have withheld petitioner's  
right's.

Title 28 U.S.C. § 1332 (1)(c)(2)

the legal representative of the estate of a decedent shall be deemed to be a citizen only of the same state as the decedent,...

One could construe at first that Personal Jurisdiction under  
(8)(a)(1) would be probable to impose.

In some certain cases the supreme court has granted certiorari; see Stern v. Marshall, Estate of Vicky Van Marshall 180 L.ed 2d-475, 564 US-402 2002 177 L.ed. 2d 1152 certiorari granted.

granted

Waterman v. Canal -Louisiana Bank and Trust 215 US 33 . 30 S.ct..

10 (1909) 54 Led 80 where plaintiff has plain adequate and complete remedy at law.

As the above cases are different as this case some could decide to give consideration that there is a relation in a legal terms to the court willing to participate in a consideration of this case.

In case : Dulce v. Dulce :223 F.3d 143:: Opinion Dec. 13, 1999

(alleging breach of an oral agreement. In our view, the scope

of the probate exception is not as broad as the district court

believed to be.)" The district court's order declining to enter-

tain plaintiffs application for relief on the ground of the pro

bate exception is hereby vacated. We remand for further proceedings.

dings" see footnote (WE recommended to the district court that

it either continue the appointment of counsel for plaintiff .

,"We conclude that the district court could have granted relief

sought by the plaintiff without violating the probate exception.

1 [ as a general Rule , once a federal court has entered judgment,  
2 it has ancillary jurisdiction over subsequent proceedings neces-  
3 sary to " Vindicate it's authority , and effectuate its decrees."  
4 Peacock v. Thomas ,516 U.S. 349, 354, 133 L.Ed. 2d 817, 116 S.ct.  
5 862(1996)(internal quotations ommitted).Without ancillary juris-  
6 diction to enforce judgments,"The judicial power would be incom-  
7 plete and entirely inadequate to the purposes for wich it was  
8 conferred by the constitution. "Peacock,516 U.S. at 356(internal  
9 quo. om.).In our view ,the relief sought by the plaintiff did  
10 not exceed the proper bounds of a federal court's jurisdiction".

11 Here , by the departure by a lower court, petitioner seeks as  
12 to call for an exercise of this court's Supervisory Power.]  
13 see Rule (10)(c) a state court or a United States Court of App-  
14 eals has decided an important question of federal law that has  
15 not been, but should be settled by this court, or has decided  
16 an important federal question in a way that conflicts with rel-  
17 event decisions of this court. see Also Wilkinson v. Dotson.

18 It is not necessary that pendant jurisdiction be affirmative  
19 pleaded. Carlo C. Gelardi Corp. v. Miller Brewing Co.(1976,DC NJ)  
20 421 F Supp 237, 1977-2 CCHTRADE Cases P61755

21 Under Fed. R. Civ. 8 (a) (1) jurisdictional basis need not be  
22 pleaded to establish supplemental jurisdiction over claim where  
23 court's jurisdiction over primary claim

24 has been established although common and  
25 causious practice is to include allegation in complaint,where  
26 subject matter jurisdiction exists under 28 USCS § 1331,  
27 Supplemental jurisdiction need not be specifically pleaded if  
28 relationship between federal claim and state claim permits

1 conclusion that entire action derived from common nucleus of  
2 operative fact where former employee's state law claim arose  
3 from same as controversy as his 42 USCS § 1983 &  
4 § 1292 (b) that the district court order "involve a controlling  
5 question of law". In the federal court , Fed. R. Civ. P. 15(c)  
6 sets forth the applicable standard governing the relationship  
7 back of amendments. Thus, even in a diversity case where the  
8 court would otherwise be required to apply the law of the state  
9 in which it is sitting, the federal rules are controlling over  
10 conflicting state laws unless the particular rule in question  
11 transgresses either the standards set forth in the Enabling Act  
12 28 U.S.C.S. § 2072, or the constitution Goodman v. Poland (D.  
13 Md. May 28, 1975). 395 F Supp 660. "The court held that under Fed.  
14 R. Civ. P. 15(c) the common law fraud claim was deemed to relate  
15 back to the original complaint and, thus, was not barred by st-  
16 ates statue of limitations. .... Pursuant to section 27 of the  
17 securities exchange act, 15 U.S.C. § 78aa, this court has exclus-  
18 ive jurisdiction over the claim set forth in the first count. ...  
19 However, inasmuch as the second, third, and forth counts all  
20 allege claims arising under Maryland statutory and common law,  
21 this court's jurisdiction over them is premised solely on the  
22 doctrine of pendent jurisdiction". see United Mine Workers of  
23 America v. Gibbs, 383 U.S. 715, 86 S.ct.1130, 16 L.Ed. 2d 218  
24 (1966). Courts §240- pendent federal jurisdiction-nonfederal  
25 claims. 1. While a federal court's may assume jurisdiction  
26 2. A federal court's judicial power to exercise pendent  
27 jurisdiction over a nonfederal claim exist whenever  
28 there is a federal claim having substance sufficient to

1 confer subject matter jurisdiction on the court and the relati-  
2 onship between the claim. ... & see also Strong v. Repide, Supra  
3 ,213 U.S. at 433,295 S. ct. at 526; Rochez Bos., Inc. v. Rhoades  
4 ,supra ,353 F. Supp. at 802 & N.20, defendants duty to disclose  
5 any meterial facts, although evidence of events after that date  
6 might well be relevent to showing nondisclosure or fraud with  
7 respect to events. ... Although federal rules of civil p. do not  
8 apply to cases in courts of appeals, such courts have power und-  
9 er the all writs act (28 USCS §1651) to issue such writs, orders  
10 ,and other process as may be necessary to conduct of such proc-  
11 eeding, including in appropriate cases, orders compelling disc-  
12 overy." Since district court sitting with three judges under  
13 special provision of pre decessor to 28 USCS §§ 1253, 2101 and  
14 2284 was still district court of  
15 United States, Rules were applicable to it and  
16 thus were incorporated by references in ... Walter Brown & Sons  
17 ,Inc. v. Clark(Temp. Emer. ct. App. Feb. 25, 1948) ,  
18 166 F. 2d 435. " Upon the basis of such experience any further  
19 necessary action will be taken."  
20 Although Supreme Court has held that habeas corpus proceeding  
21 are to be considered outside the scope of rules, there is no  
22 objection to use of particular rules by analogy where appropriate  
23 . Winn v. Page (W.D. Okla. Apr. 7, 1970),311 F Supp 691, 14 Fed  
24 R Serv 2d (Callaghan)301. District Court's power over wich it  
25 has jurisdiction is derived from common law."end quote  
26 see Reeves v. Wells Fargo Bank, N.A.: April 14, 2014 Lexis 195136  
27 1) The defendant acted intentionally or recklessly  
28 2) the emotional distress suffered by the plaintiff was severe

1 3) the defendant's conduct was extreme and outrageous,  
2 4) the defendant's conduct proximately caused the plaintiff's  
3 emotional distress, and (5) no alternative cause of action would  
4 provide a remedy for the severe emotional distress caused by the  
5 defendant's conduct Kroger Tex.L.P. v. Suberu, 216 S.W. 3d 788,  
6 796 (Tex. 2006); Hoffman- La Roche Inc. v. Zeltwanger, 144 S.W. 3d  
7 438, 447 (Tex. 2004). Thus when a person intentionally inflicts  
8 severe emotional distress in a manner so unusual that the victim  
9 has no other recognized theory of redress that precludes his  
10 inability for. ..." As in a case such as here. "Withstanding  
11 the severe emotional distress caused by defendant."

### Irreparable Harm

13 Were a exception to the exhaustion requirement for "circumstances  
14 that render state corrective process ineffective to protect the  
15 right of the applicant because requiring exhaustion thus is "in-  
16 effective to protect the federal statutory-and possibly, the  
17 federal constitutional rights of the applicant." If, on the other  
18 hand the court concludes that state consideration in the first  
19 instance is important, see *Granberry v. Greer*, 481 U.S. 129, 131  
20 ,134-35 (1987) 2264 (a)'s default rule (3) based on a factual  
21 predicate that could not have been discoverd through the exercise  
22 of due dilligence in time to present the claim for state or  
23 Federal post-conviction review.

24 Discrimination against Krohe violated his constitutional rights

25 | Restrictions on his Ability to succeed on case

26 in United States District Court  
27 For the Eastern District of Pennsylvania. Ruled in the case, Ruled  
28 in the case, United States of America exrel. Richard J. Mayberry

1 v. Arthur T. Prasse, commissioner of corrections of commonwealth  
2 of Pennsylvania and David Meyers... 225 F. Supp.752;1963 U.S Dist.

3 Lexis 6258civ. A no. 32994 see under [225F. 753]

4 "Since this is a civil rights case there is no requirement of  
5 exhaustion of state judicial remedies as in a habeas petition".

6 See Cooper v. Hutchinson, 184 F. 2d 119 , 124(3d cir. 1950)"But  
7 appellants say that their right to assert a claim under section  
8 1 of the civil rights Act of 1871 is not dependant upon the prior  
9 pursuit of relief under state law. That is correct. Lane v. Wilson  
10 1939,307 U.S. 268, 274-275, 59 S.ct. 872, 83 L.Ed.1281."We  
11 are not here governed by the rules of habeas corpus cases to  
12 to the effect that the state law processes must be exhausted  
13 before there can be resort to federal court. 10 And the provis-  
14 ion in the Judicial Code forbidding the use of the injunction  
15 against state court action has a stated exception when

16 Federal Statute Allows it , as it does here."

17 Courts §698- Federal Courts- interference with state courts-  
18 injunction-criminal prosecutions.

19 A federal court in the exercise of its discretion as a court of  
20 equity, should refuse to interfere with or embarrass, by injunc-  
21 tion , threatened criminal proceedings in state courts, save in  
22 those exceptional cases which call for the interposition of a  
23 court of equity to prevent irreparable injury which is clear  
24 and imminent;and injunctive relief of this kind should be with-  
25 held if sought on slight or inconsequential grounds".

26 In 87LED 1324, 319 US 157 Douglas v. Jeannete[319\*US 161]

27 "[is we think it plain that the district <\*pg.1328>court had jur-  
isdiction. ]

1 as a federal court to hear and decide the question of constit-  
2 utional validity. ...In Cooper v. Hutchinson::May 24, 1950  
3 "The arrest by the federal courts of the process of criminal law  
4 within the state \*\*\* (is)to be supported only on a showing of danger  
5 of irreparable injury "both great and immediate." Douglas v.  
6 City of Jeaneete, 1943, 319 U.S. 157, 163-164, 63 S.ct.  
7 877, 881, 87 L.Ed. 1324. And see Spielman Motor Sales Co. , Inc.  
8 v. Dodge, 1935, 295 U.S. 89, 55 S.ct. 678, &9 L.Ed. 1322; Mathew  
9 v. Rodgers, 1932, 284 U.S. 521, 52 S.Ct. 217, 76 L.Ed. 447."  
10 (1971),449 F.2d 1266:: Mayberry v. Prass :: outcome "The judgment  
11 of dissmissal of appellant inmate's civil rights action against appellee... .  
12 was vacated and the matter remanded for further proceedings. The district court  
13 should have followed the advice given under case law . Appellant prisoners were  
14 entitled to an opportunity to be heard on the legal question involved."  
15 ... whatever conclusion the district judge may arrive at on the merits(see Sheridan  
16 v. Williams 333 F.2d 581(9Cir.1964))will have the benefit of the views of the  
17 jurisdictional question."Also see Lawson v. Prasse, 411 F.2d 1203(C.A.3, 1969;  
18 Mayberry v. Maroney, 394 F. 2d 181 (C.A. 3, 1968):Bavers v. Heisel, 361 F. 2d  
19 581 , 584 n. 3 (C.A. 3, 1966)." In Whitley v. Hunt 158 F.3d 882;1998 U.S. App.  
20 "Although Whitley failed to present the district court with a properly styled  
21 amended complaint, his pro se attempt to narrow his pleadings was timely[\*885]  
22 and should have been given effect as a matter of course. See, e.g. Horton v. Cockrell  
23 ,70 F.3d 397, 402(5th Cir.1995).We therefore construe Whitley's prose complaint  
24 as a request for exclusively monetary relief."...The Court reasoned that  
25 McCarthy's holding that Congress did not intend to require exhaustion of  
26 unavailable remedies survived in plain language of the amended statute.127 F.3d  
27 at 1266;"...,the Court held that §1997e could not be construed to require the  
exhaustion of non-----

1 existent remedies,"Given that Whitley has narrowed his complaint to seek exclu-  
2 sively monetary relief,... ,and the district court's dismissal of his Bivens claim...  
3 Conclusion "The district court's dismissal of Whitley's denial...claim against...  
4 for non-exhaustion is Reversed and the cause remanded."

5 Note See

9 242 Hardt v. Reliance Std. Life Ins. Co. April 26,2010.

10 This claim was For Krohe to have the money he sent to Zandra  
11 Steinhardt who gave him a verbal agreement to retain counsel  
12 for Krohe upon his request out of the amount left he believed  
13 to be at least 32k. Krohe being the beneficiary and that the  
14 money was intended for the purpose to hire an attorney at The  
15 request by petitioner to the court's Krohe should have been  
16 able to the least given the fairness for respondent to have  
17 denied and try to explain the situation of the amount in con-  
18 troversy. As it would seem here mentioned in Ibid the court's  
19 could and fully allow an order for the relief Krohe requested  
20 for the money for an attorney fee. With the event of Krohe to  
21 discover the outcome that money was infact unaccounted for and  
22 that information had been withheld about risky investments and  
23 invested money was lost over the course of several years. Krohe  
24 had learned of this and determined that he shouldn't have been  
25 denied the funds for him to retain counsel regaurdless of him  
26 had put the money into the "TRUST" When the amount unaccounted  
27 for spent from the "TRUST" combined with together the amount  
that had been badly invested or wrongly spent.

1 Krohe sought to redeem as an alternative the amount in question  
2 by way through the Ninth Cir. Court of Appeal he gave way an  
3 explanation that as a result of the actions of the respondent  
4 that an amount that was equal or well over the amount he intended  
5 to regain for a lawyer fee. Was infact missproperly missappropri-  
6 ated and relief should be granted and that Zandra Steinhardt  
7 should have to return an amount of funds to have been determined  
8 by the court. Point taken Zandra was not immune and liable for  
9 the unaccounted funds from "TRUST" and to the best of Krohe's  
10 Knowledge he believed that the rest of the lost investment that  
11 was "Risky" was a bad choice and one that Zandra should not have  
12 made and needed to be responsible for the bad investment and as  
13 the type of investments were to be held that some one a person  
14 Trustee of a "TRUST" as her, will be held responsible for any  
15 or all of lost investment and that Zandra was liable. So Krohe  
16 asked for the monetary relief and suggested an amount than was  
17 equal in that amount ,fair , and same or about that of wich in  
18 question. Only if respondent were not willing to admitt and to  
19 afford to offer the amount requested to be returned than Krohe  
20 seeked damages for an additional amount only to be added to the  
21 lower amount and should be granted such amount if and when the  
22 court decided. Thus the Court didn't decide to and dissmissed  
23 case here now being presented. The judgment was unfair and  
24 should not have been dissmissed. The court never even questioned  
25 weather if claim were true or nor did respondent ever even deny  
26 such claim. In a over excessive amount by inmates who file false  
27 claims this is one of such that isn't and shouldn't of been denied  
and gave the fair opportunity to go into forum.

1 The forum of to deny case and not give the fair opportunity in  
2 the proper forum is unjust and we can come to the conclusion  
3 that no constitutional right here was deprived or caused to.  
4 Than the very aspect of the process of federal constitutional  
5 rights does not serve to be an all equality one and that for  
6 only the few who are to be selected to be afforded the benifit  
7 of the constitution and laws of our country are upheld their  
8 rights. As this case does reflect an important issue and one  
9 the federal courts have had rather not hear the cases that  
10 support the case and the United States Constitution do infact  
11 give support to this case here and relief should be granted.

12 When Krohe initial filed case in N. District U.S. Federal  
13 Court in the State of California. Case filed no. 17-cv-03151-  
14 L.B. . The case was filed as a 42 U.S.C §1983 and all other  
15 related complaints filed consolidated into case that were  
16 transfered to the Eastern District of California District Court  
17 should have still been refered to be a §1983 civil suit for a  
18 denial of a right under the constitution of the U.S. in no way  
19 should any other element outweight the civil right claim.

20 In a manner of a Sixth Amendment right to be represented by  
21 particular counsel of choice. Being that do to Krohe had not  
22 been afforded per his request the lawyer or even assistance to  
23 help with the help of trying to find an advocate to assist him  
24 for that matter and Krohe did infact entrust respondent to find  
25 and retain an attorney from the funds he set out to hire an at-  
26 torney with that he sent to Zandra from his inmate trust account  
27 that Zandra gave no respect for request and therefore denied he  
of that right of a lawyer of his choice.

1 The court has set a case law ruling in the subject matter. See  
2 in United States v. Gonzales-Lopez, 548 U.S. 140, 126 S.Ct. 2557,  
3 165 L.Ed. 2d 409 (2006) as reflected proves prejudice.

4 "Sixth Amendment right to be represented by particular counsel  
5 of choice, recently announced in United States v. Gonzales"  
6 " The right to select counsel of one's choice" is thus" the  
7 root meaning "of the Sixth Amendment right to counsel. ,Ibid  
8 ,548 U.S. 140, 147-148, 126 S.Ct. 2557, 165 L.Ed. 2d 409."

9 Even more so that the money was to have been sent to be afforded  
10 for Krohe to have the right to select counsel and representation  
11 at the request that he made clear that it was his intention to  
12 seek counsel and to hire for him a lawyer.

13 Constitutional right , the Sixth  
14 Amendment denies the Government unchecked power to freeze a de-  
15 fendant's assets before trial . . . . The right to counsel protects  
16 the right to use lawfully owned property to pay for an attorney,  
17 the right to counsel-originally understood to protect only the  
18 the right to counsel of choice. As understood in 1791, the  
19 Sixth Amendment protected a defendant's right to retain an att-  
20 orney he could afford. To determine which freezes are "legitimate"  
21 and which are an abuse of... power". McCulloch, 17 U.S. 316,  
22 4L.Ed. 579, 4 Wheat., at 430. see Caplin & Drysdale, Charter v.  
23 United States 491 U.S. 617, 635, 109 S. Ct 2646, 109 S.Ct. 2667  
24 ,105 L.Ed. 2d 258 (1989)(Stating indicta that "[c]ases involving  
25 particular abuses can be dealt with individually...when (and if)  
26 any such cases arise"0. "trade offs are thus not for us to  
27 reevaluate." "the very enumeration of the right "to Counsel of  
choice denies us"the power to decide. ...whether the right is  
really worth insisting upon."

District of Columbia v. Heller (2008)

2       id., at 634, 128 S. Ct. 2783, 171 L.Ed. 2d 637. Such judicial  
3       balancing "does violence" to the constitutional design. Crawfo-  
4       rd v. Washington, 541 U.S. 36, 67-68, 124 S.Ct. 1354, 158 L.Ed.  
5       2d 177(2004). To shed a respectful relation to claim Krohe would  
6       like to mention . That Zandra shouldn't have in any way or for  
7       done what she had done to him by not seeking counsel for him and  
8       paying fee out of money sent. The government can't freeze some-  
9       ones assets and do the same. So Zandra shouldn't have been able  
10       to do the same . One could only think that this case is entirely  
11       unfair and unjust and that a United States supreme Court ruling  
12       would with all due respect put the issue of the case on the merits  
13       and show that a person whom even from a prison should not be  
14       denied of such in such a way that is a violation of their Six  
15       Amendment Right and that if presented accordingly on time to the  
16       courts in the U.S. upon doing so to the federal court that their  
17       U.S. constitutional rights are to be upheld and not withheld.

Under Fed. Rule Civ. P. 56.

19 Summary judgment is warrent against a party who fails to make  
20 a showing sufficient to establish the existence of an element  
21 essential to that parties case, . . . . I can justly show here that  
22 I have made a showing sufficient to establish the existence of  
23 an element essential . Formost and upmost this case should have  
24 never been put to this test (1) Zandra should have kept to her  
25 word and done what she promissed to and retained counsel when  
26 the request was made . (2) The money that Marla Krohe entrusted  
27 to shouldn't of been missappropriated or unaccounted for.

1 (3) Courts should of took notice that a civil right was being  
2 deprived . That Krohe did mention that he filed a § 1983 Civil  
3 action and gave a informed explanation that should have been given  
4 better consideration. The case law and the other statutes, tog-  
5 ether with a consideration of the demands of sound judicial pol-  
6 icy to conclude that the record is wholly adequate for judicial  
7 review, this court has jurisdiction to review the case and for  
8 the better interist in justice the petitioner request that the  
9 court adopts a literal interpretation of the language and he  
10 urges that they find it in his favor. Any ruling other  
11 denied to say the least would provide suffice.  
12 If possible a judgment in favor on the merits at U.S.  
13 Supreme Court level would be in upmost more benefi-  
14 cent to save governments time and money. To sooner better  
15 resolve the issue than to torment the strenue of a longer  
16 delay of prolonging what is presented.

17 One could say that the lower court's reasoning  
18 could appear as bias and that determination would be best if  
19 the case was resolved now. Also that ,the question is of great  
20 importance to prisoners, because it affects their ability to  
21 receive fair decisions in proceedings that may result in months  
22 of or years in ongoing litigation. Rule 11 of the Fed.Rules  
23 of the Civil Procedure provides for sanctions(penalties) aga-  
24 inst attorneys who file papers that have no basis. If this  
25 case could imply that respondents who for no basis cause to  
26 be filed paperwork, documents in such a cause of action as to  
27 one the same as this, should also face penalties against who  
any person causes .



1 1. Federal Courts key :589

2 Appeal from a dismissal without prejudice is permitted under  
3 statut governing appeals from final district court decisions  
4 when plaintiff declares his intention to stand on his complaint  
5 or when he cannot cure the defect in his complaint. 28 U.S.C.A.  
6 § 1291.

7 2. Federal Courts key :797

8 On review of a motion to dismiss Court of Appeals accepts as  
9 true all factual allegations in the complaint.

10 3. Federal Civil Procedure key :1824

11 Generally, sua sponte dismissal is apparent from the face of  
12 the complaint.

13 4. Civil Rights key :13.12(6)

14 Mere assertions by that incidents described by prisoner in his  
15 complaint never took place or were misdescribed did not provide  
16 basis for finding that his complaint did not state a cause of  
17 violation of civil rights. 42 U.S.C.A. § 1983.

18 5. Federal Civil Procedure key 2491.5

19 Genuine issue was raised as to whether prisoner received~~legal~~  
20 discovery materials or was denied those documents in violation  
21 of his civil rights, precluding summery judgment 42 U.S.C.A.

22 § 1983

23 6. Civil Rights key 214 (2)

24 In determining validity of qualified immunity defense, issue is  
25 not whether respondent acted wrongly, but whether reasonable  
26 person would know that they acted in manner which deprived  
27 another of known constitutional right. 42 U.S.C.A. § 1983.

28

1 7. Civil Rights key : 238

2 In a Constitutional claim asserted by § 1983 plaintiff must  
3 not be of purely general or abstract nature, but instead must  
4 be somewhat particularized, so that reasonable person would  
5 understand that action taken violates that right. 42 U.S.C.A.  
6 § 1983.

7 8. Civil Rights key:237

8 To defeat a claim of qualified immunity a plaintiff must plead  
9 and prove that the defendant violated a clearly-established-  
10 constitutional or statutory right of which a reasonable person  
11 would have known.

12 9. Conspiracy key :7.5 (1)

13 Elements of a claim under the civil rights conspiracy statute  
14 are : (1) a conspiracy ; (2) to deprive the plaintiff of equal  
15 privileges and immunities or equal protection ; (3) an act  
16 in furtherance of the conspiracy; (4) a resulting injury or  
17 deprivation of rights. 42 U.S.C.A. § 1985 (3)

18 Estate, Gift & Trust Law> Trustee > Duties Powers

19 A Trustee is to incur only costs that are reasonable in amount  
20 and appropriate to the investment responsibilities of the trus-  
21 teeship . Cost-conscious management function, and should be app-  
22 lied not only in making investments. Implicit in a trustee's  
23 fiduciary duties is a duty to be cost conscious as the Uniform  
24 Prudent Investor Act observes ; wasting beneficiary's money  
25 is imprudent. In devising and implementing strategies for the  
26 investment of trust assets, trustees are obliged to minimize  
27 costs. Unif. Prudent Investor Act §7 .

28 see:843 F.3d 1187:: Tibble v. Edison Int'l:: Sept. 8,2016  
vacate and Remanded..

1 Trust § 2574- United States and State of California obligations; Listed stocks  
2 ,bonds and other securities(1) lists(1)¶(6)

3 Court, § 670-Jurisdiction of federal Courts to adjudicate rights to property in  
4 state court's possession.

5 While a federal court may not exercise.... save to the extent that the state  
6 court is bound by the judgment to recognize the right adjudicated by the Federal  
7 Court.

8 § 1343 civil rights and elective franchise

9 (a) The district courts shall have original jurisdiction of any civil action  
10 authorized by law to be commenced by any person: (a) (1) To recover damages  
11 for injury to his person... (2) To Recover damages from any person who fails  
12 to prevent or to aid in preventing any wrongs....

13 (3) To redress the deprivation,... To deprive a person of their constitutional  
14 Right.

15 Rules 3(c), 3(I), Civil Rules

16 For a conference call between Petitioner and Respondant.

17 Rule 34(b) and 37(a) ; Fed.R. Civ. P. for an order compelling  
18 the Respondent, Appellee to produce for inspection and copying  
19 of documents requested for records of bank statements and  
20 all other statements necessary./ To Give a Reply and response  
21 to writ. Decide to accept offer agreement .

22 If not to accept offer agreement follow direction of the court.

23 see Title 18 § 1962 (d) & TITLE 15 § && q (a) (2) to obtain  
24 money or property by means of any untrue statement of a material  
25 fact... .: &

26 Securities Exchange Act of 1934, 15 U.S.C. § 78 ~~n(e)~~ and 17 CFR  
27 §240 14e-3(a), when Government provided insufficient of willful-  
28 ness to dispell reasonable doubt be reasonable fact finder.

1 Petitioner seeks exclusive monetary relief. If Zandra would  
2 concede and Settle Krohe would go back to last offer in Appeal  
3 to 9th cir. of rounded down to 36k as herehe will explain to  
4 give a more better understanding here's the reason why .  
5 In Exhibit C of Exhibit is accounting of trust see deposit  
6 of \$41,700 w/copy of money order sent by Krohe.  
7 All exhibits that are in Exhibits C -- subsection Exhibits  
8 are refered to as J-T as labled from original court document.  
9 Noticed was a large sum of money unaccounted for. Exhibit will  
10 be "Ex. " from here on out . Ex. J balance is correct for 2007  
11 Ex. K ending balance for 08 is incorrect balance of \$10,147.11  
12 should total \$12,017.45 diffrence is \$1870.45. Ex. L begining  
13 balance should be what is shown to calculate diffrence so if  
14 it says begins with \$10,147.11 and the ending should have been  
15 \$11,076.81 than that year for 09 is accurate. Ex. M begining  
16 with balance of \$11,076.81 Ending with balance of \$2117.78  
17 unaccounted for because ending balance is \$42030.43 and  
18 should = \$44,148.21 according to proper calculations and  
19 the missing amount is unaccounted for. Ex. N is off by  
20 \$107.05 unaccounted. Ex. O No ending balance on statement.  
21 Ex . P begining balance shows differ from what ending of O  
22 should be = to \$28,232.05 if the year was correctly balanced  
23 and accounted for in 2012. so the ending total amount of cash  
24 for Ex. P year 2013 is off by \$105819 unaccounted. There is  
25 also another problem the total Mid Valley deposits for Ex. P  
26 are not totaled in the ending balance shown so the amount fr-  
27 om then on is never accounted for \$12,510.19. Ex. Q Mid-Val-  
28 ley=\$8829.29 balance shows \$46,871 according to my calculation

1 total if the Mid Valley Financial deposit of \$8,829.29 is add  
2 to total at end of Ex. Q End balance shows \$46,871.00 and should  
3 total \$47,509.66 that is an = of \$638.25 unaccounted.

4 Ex. R end balance is = \$8,011.09 if accounted for what period  
5 begins to end is accurate. Ex S. ending balance should show  
6 \$16,087.58 the ending balance shows \$7,166.95. The total of  
7 unaccounted is = \$8,920. Ex. T. shows begining balance of  
8 \$7,166.95 & ending of \$12,320.94 the ending total should  
9 say \$12,503.68 = \$182.74 unaccounted for. Being that Zandra  
10 withheld the record all the entire time for the several years  
11 from 08 -  $\frac{1}{2}$  of 2017 up to June of 2017. There was nothing he  
12 knew or could do except ask the courts to order request for  
13 the discovery. The Record went up to June , Zandra didn't term-  
14 inate from "Trust unto Oct. 3 , 2017. The missing months should  
15 be ordered along all for motion of all discovery to have an  
16 accurate account statement with what shown that would be pro-  
17 per . Total of Unaccounted amounts of cash from "Trust"

18 Ex. L = \$1,870.45

19 Ex. M = \$2117.78

20 Ex. N = \$107.05

21 Ex. P = \$ 1058.19 & \$12,510.19

22 Ex. P if \$11,00.00 legal fee were shown that would = \$2,510.19

23 instead of \$12,500.19. If Zandra were to prove that the legal

24 fee in 2013 was paid than would account for most of the depo-

25 sit that is missing for that year.

Ex. Q = \$638.25

Ex. S = \$8,920.63

Ex. T = \$182.74

26 total = \$27,405.28

27 court costs will now total = \$1,255.00

28

1 The amount of loss for the John Hancock fund II = \$6783.74  
2 total for Attornies Dowling & Aaron, Inc. = \$12,128.50  
3 Total of cash unfairly misshandled from "Trust" = \$47,272.52  
4 Unless Zandra Steinhardt respondent can account for the  
5 Attorney fee to Rich Pfeiffer in 2013 of \$11,000  
6 than that money is still unaccounted for. This is her  
7 duty to account for it and till then still be accounted.  
8 I'll agree to if fee to Rich pfeiffer is accounted for  
9 than for a settlement of \$36,000.00 . If She will so choose  
10 to settle upon first notice of case if the court orders a  
11 grant of some type of relief and judgment is vacated and or  
12 remanded or an order is made to order an order to review case.  
13 That then she would rather pay than to further proceed at the  
14 first step after this petitioner will settle.

15 If Zandra doesn't wish to settle than I'll ask  
16 for the max the court will allow. What so ever that amount  
17 is to be determined by the court. An amount of at least of  
18 \$100,000.00 should and may be even greater than if the  
19 court deems so. Here I'll explain:

20 \$47,272.52 for misuse of funds from "trust" repayment of  
21 \$15,000 for increase of mental illness for § 1983 civil suit  
22 \$25,000 for loss of enjoyment of life for § 1985(3)added  
23 \$10,000 for pain and suffering for § 1983/1985(3)  
24 \$54,750 for \$150.00 a day for one year for year spent  
25 being denied money for attorney from Oct., of 2016 to  
26 Oct., of 2017 . For a total of \$152,022.52.

27 The court has power under the All Writs Act  
28 (28 USCS § 1651) to issue such writs -

1 For one the money that is unaccounted Zandra should have to pay Tax for.  
2 If she is going to concede and repay back the money than she wouldn't have  
3 to pay the tax. If unaccounted should the tax for it have to be paid for it  
4 by her? If the case was never brought up to the attention to the court.  
5 The money should be paid back no matter and no taxes would apply. Taxes  
6 could be raised and be grounds for jurisdiction in a federal court.  
7 Zandra Steinhardt works in home mortgage and is a loan officer. With a  
8 DRE License # 00984482 ,& , MNLS License # 22570. Knows because of her  
9 work what is proper and not proper. "Contours of the right must have been  
10 established so that the unlawfulness of the defendant's conduct would have  
11 been apparent in light of existing law." *Cleveland-Perdue v. Brutsche*, 881 F.  
12 2d 427 ,429 (7th Cir.1989)(citing *Anderson v. Creighton*, 483 U.S. 635,639-40  
13 ,107 S.Ct.3034,3038-39,97L.Ed.2d 523 (1987)  
14 Zandra should not have denied Plaintiff's Civil Rights. Plaintiff/Petitioner  
15 declares to stand on his complaint or when he cannot cure the defect in his  
16 complaint 28 U.S.C.A. §1291 his intent to pursue any other remedy due to pas-  
17 sage of time and being in prison .42 U.S.C.A. §1983;Civil Rights of Institu-  
18 tionalized Persons Act,§7(a),42 U.S.C.A. §1997(e)(a). Original case filed  
19 pursuant to § 1983 . The District Court dismissed Krohe's complaint based  
20 on its determination that Krohe's not "demonstrated" that he had exhausted  
21 his state remedies. The District court erred by improperly heightened plead-  
22 ing standard that required Krohe not only to undue time to prove his exhaus-  
23 tion in his complaint, but also to impose a more over excess of Governments  
24 Courts time unneccesary. See e.g. 141Cong Rec.26,548(1995)"Frivolous law suits  
25 filed by prisoners tie up the courts, waste valuable legal resources, and affect  
26 the quality of justice enjoyed by law-abiding citizens." *Krohe v. Steinhardt*  
27 is not a frivolous case and waste of legal resources. He needed lawyer for  
28 Post -Trial case on CAA. to Ninth Cir. Appeal court he didn't have time to  
be put through state exhaustion. That would save courts legal resources so  
the issue could be resolved, by fast and less exhausting way.

CONCLUSION

~~The petition for a writ of certiorari should be~~  
~~granted.~~