

ORIGINAL

No. **18-7363**

FILED

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OFFICE OF THE CLERK
SUPREME COURT, U.S.

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)

Ione, 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

- [x] 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

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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

☒ For cases from **federal courts**:

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

☒ 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☐ is unpublished.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 B to the petition and is

☒ reported at No. 17-cv-00878-DAD-MJS/Lexis 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☐ is unpublished.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 Amendment due process clause, and the counsel clause of the Sixth 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 originally 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 [receives money to which 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 regards 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 him with forwarding him attorney names and phone
25 numbers of any post conviction attorney that specialized
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 unsuccessful & 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-1a 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, regardless 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 answers 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 Claim is for a "sum certain, or for a
20 sum wich can by computation be made certain", In order for
21 the court to determine the amount to be accurate. I offer
22 my solution to resolve the issue that if according to my
23 calculations if they are inaccurate than I should have to
24 pay the court out of own money still in "Trust" to an
25 accountant the court were of normaly use for calculating a
26 type of issue like this and that if my calculations are
27 to be correct than Zandra should have to if the court is
28 to rule in my favor order Zandra to have to pay the cost
for the court to have to have the accountant 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 thereof to the deprivation of any rights, privileges, or immunities 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 taken brought 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 violated or 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 presumablynever 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, wich
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 issueand 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
8 claims, claims brought under the federal Tort Claims Act,...

9 Myrtle Lyn Prewitt v. Miss. State Univ. 433 Fed. Appx.279;
10 2011 U.S. App. Lexis 15040, no. 10-60551
11 district court motion to allow retaliation claim, Parties
12 unable to reach agreement-Prewitt appealed to district judge,...
13 ,with district judge dismissed, see "we do not dispute that
14 Prewitt's litigation techniques have been unduly burdensome
15 ... ,filing of inappropriate motions, untimely raising of
16 issues ,... . judgment is vacated and the case is remanded.
17 As I could seem that this request is burdensome and that
18 I may have filed inappropriate motions,untimely raising of
19 issues . If possible may I have the bennifit as of on some
20 cases like one mentioned here of the court to consider on
21 the entire history and explanations to lower court's and now.
22 (T)he first inquiry in any § 1983 suit. ... is whether the
23 plaintiff has been deprived of a right "secured by the consti-
24 tutional and laws. "Baker v. McCollan, 443 U.S. 137, 140, 99
25 S.Ct. 2689,2692, 61 L.Ed. 2d 433(1979)" quoting :628 F.2d 736
26 ::Landrigan v. Warwick:: (1980) see opinion; The judgment
27 dismissing the action against the city of Warwick and the
28 town of East Greenwich is affirmed; the judgment is otherwise
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).]

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

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

Judicial Notice of Adjudicative facts (e) on timely request, a party is entitled to be heard on the propriety of taking judicial notice and the nature of the fact to be noticed. If the court takes judicial notice before notifying a party, the party, on request, is still entitled to be heard. (c) Taking Notice. The court (1) may take notice on its own; .

To Make Out a Valid Claim Under § 1983, a plaintiff must allege and eventually prove that: (i) the conduct complained of was committed by a person acting under color of state law; (ii) this conduct deprived a person of constitutional rights; and (iii) there is an actual connection or link between the actions of the defendants and the deprivation allegedly suffered by the plaintiff. Title 42 USCS § 2000a-6(a) The District Courts of the United States shall have jurisdiction of proceedings instituted pursuant 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 beboth (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. 544

28 or, 570 or, 127 S.Ct. 1955 or 167, 1 L.Ed. 2d 929 (2007)).

(§1983 Civil action for deprivation of rights or causes to
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, immunities secured by the constitu-
tion and laws,)" shall be liable to the party injured in an ac-
tion at law",)Effect of inept pleading of federal claim:The co-
mplaint's lack of reference,or erroneous reference, to federal
law is not controlling.As long as the nature of the federal
right is clearly set forth,Federal question jurisdiction
.[North American Phillips Corp. v. Emery Air Freight Corp.
(2nd cir.1978) 579 F2d 229

Rule 15 of the Federal Rules of Civil Procedure

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

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

The fact that federal courts of equity have no probate jurisdiction does not
preclude them from entertaining suits in favor of heirs, legatees and other
claiments against a decedent's estate to establish their claims, so long as
the federal court does not interfere with the probate proceedings or assume
general jurisdiction of the probate proceedings or assume control of the prop-
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 wich congress
3 has conferred 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 adjucate rights in such prope-
8 rty 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.ct. 600)
12 ;Unifed 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 wich congress
14 has conferred 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.,juridiction 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 adm-
2 inister 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. Marshall 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 Federal - question jurisdiction will lie over state-law claims
23 that implicate significant federal issues. E.g., Hopkins v. Wa-
24 lker, 244 U.S. 486, 490-491, 61 L.Ed. 1270, 37 S.Ct. 711 (1917).
25 : Appeal § 23 federal court's of appeals have jurisdiction of
26 appeals from "final decisions" of United States District Courts.
27 28 U.S.C.S. 1291
28 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 decedant 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 entertain plaintiffs application for relief on the ground of the probate exception is hereby vacated. We remand for further proceedings" 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 omitted).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 cautious 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 wich 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- pendant 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."

12 Irreparable Harm

13 Were an 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 discovered through the exercise
22 of due diligence 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 ex rel. 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 Statue 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 embarras, by injunc-
21 tion , threatened criminal proceedings in state courts, save in
22 those exceptional cases wich call for the interposition of a
23 court of equity to prevent irreparable injury wich 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 dismissal of appellant inmate's civil rights action against appelee...
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 Rovens 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
6
7
8

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 regardless 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 dissmised
23 case here now being presented. The judgment was unfair and
24 should not have been dissmised. 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 outweigh 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 wich frezes are "legitimate"
21 and wich are an abuse of... power". McCulloch, 17 U.S. 316,
22 4L.Ed. 579, 4 Wheat., at 430. see Caplin & Drysdale, Charterea 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)

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

Under Fed. Rule Civ. P. 56,

Summary judgment is warrent against a party who fails to make a showing sufficient to establish the existence of an element essential to that parties case,... . I can justly show here that I have made a showing sufficient to establish the existence of an element essential . Formost and upmost this case should have never been put to this test (1) Zandra should have kept to her word and done what she promissed to and retained counsel when the request was made . (2) The money that Marla Krohe entrusted 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 benêfi-
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 entertaining suit in favor of heir "beneficiary" of "Trust"
2 against decedent's estate to establish claim. Once Zandra
3 took possession of funds that was mailed and deposited to
4 "Trust" by petitioner .Once the fact that she withheld the
5 fee for an attorney for Krohe's appeal to 9th Cir. Court of
6 Appeal for request for COA like she promised thus because so
7 1) was over all turned into Civil Right Case
8 2) was vindictive towards petitioner and fraud occurred
9 that was due to breaking verbal agreement.
10 3) "special proficiency" of state probate court in handling
11 such issue were of no posses of state probate court.
12 4) Federal courts have jurisdiction to entertain against a
13 decedent's estate in favor of heirs against estate'to
14 establish their claims:
15 5) Federal courts have jurisdiction to entertain suits for
16 person who is deprived of their rights.

17 In this case specifically the right was
18 deprived in the denial by Zandra to deprive Krohe of retained
19 counsel. Specialy when Krohe had deposited the retainer from
20 his inmate trust account to the "IRR Special Needs Trust"
21 for Marla Krohe .Zandra took care for him as TRUSTEE. He had
22 no other way to assure the money would be available readily
23 to pay lawyer at given notice. The money went there from him
24 at notice fee should have been drawn to retain attorney.
25 Clearly there would most likely be no matter that the fed-
26 eral court would not be able to hear case . Due to Zandra
27 having the money put in from Krohe and federal courts could
28 have known by proof to uphold petitioner's rights.

1. Federal Courts key :589

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

2. Federal Courts key :797

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

3. Federal Civil Procedure key :1824

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

4. Civil Rights key :13.12(6)

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

5. Federal Civil Procedure key 2491.5

Genuine issue was raised as to whether prisoner received legal
discovery materials or was denied those documents in violation
of his civil rights, precluding summery judgment 42 U.S.C.A.
§ 1983

6. Civil Rights key 214 (2)

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

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 trust-
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 beneficiaries 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 except offer agreement .

22 If not to except 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 beginning 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 - 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
 Ex. P if \$11,00.00 legal fee were shown that would = &2,510.19
 22 instead of \$12,500.19. If Zandra were to prove that the legal
 23 fee in 2013 was paid than would account for most of the depo-
 24 sit that is missing for that year.
 25 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 respondant 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 missuse 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 unnecessary. See e.g. 141 Cong 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 COA. 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.