

APR 30 2019

OFFICE OF THE CLERK

No. 18-7956

1
2 IN THE
3 SUPREME COURT OF THE UNITED STATES
4
5 IBEABUCHI, IKEMEFULA CHARLES - PETITIONER
6
7 Vs.
8
9 PAUL PENZONE, ET AL - RESPONDENT(S)
10
11 ON PETITION FOR A WRIT OF CERTIORARI TO
12
13 THE UNITED STATES COURT OF APPEALS FOR THE
14
15 NINTH CIRCUIT
16
17 ON PETITION FOR REHEARING, PURSUANT TO
18
19 RULE 44.6, OF THIS COURT'S MAY 8, 2019
20
21 (IBEABUCHI, IKEMEFULA CHARLES)
22
23 (ADC NO. 177007, P.O. BOX 8400)
24
25 (Florence, Arizona, 85132-8400)
26
27 (Telephone Number: N/A)
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“A Court of the United States shall have power to punish by fine or imprisonment, or both, at its discretion, such Contempt of its authority, and none other, as, (3) Disobedience or Resistance of its lawful writ, process, order, rule, decree, or Command.”

(June 25, 1948, C. 645, 62 Stat. 701, Pub. L. 107-273, Div. B, Title III, § 3002 (a)(1), Nov. 3, 2002, 116 Stat. 1805.)

The Petitioner, alleges that, this Court did not enforce its Powers as cited of the Statutory Provision, herein, against the Respondent(s)', before the denial of the foregoing, Petition for a writ of Certiorari, on, April 15, 2019, when the Respondent(s)' disobeyed or resisted to maintain, Process of this Court's lawful writ. By failing to "SEND A

1 COPY OF THIS FORM TO PETITIONER'S COUNSEL OR TO
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3 PETITIONER IF PRO SE," as required of the WAIVER,
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5 Supreme Court of the United States, No. 18-7956.
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7 Whose, Act, of the Respondent(s) is punishable
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9 by law, as an intervening circumstance, affecting
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11 the Rule of this Court, of April 15, 2019. The Act of
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13 the Respondent(s) Constituted a Criminal Offense on
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15 the lawful writ, process, Order, rule, decree or Comm-
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17 and of this Court, upon which the Court should
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19 had taken a, Judicial Notice, prior to its Judgment
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21 on the Matter. Accordingly, this Court should,
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23 grant the Petition for Rehearing, to establish, guilt
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25 of the Offense characterized as to constitute also a
26
27 Criminal Offense under any statute of the United
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1 States or under the laws of any state in which the
2
3 Act was committed. 18 U.S.C. SS. 402 Contempts
4
5 Constituting Crimes.
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7 "For purposes of this section, the term "State" in-
8 cludes a state of the United States, the District
9 of Columbia, and any Commonwealth, Territory
10 or possession of the United States."
11

12 (June 25, 1948, C. 645, 62 Stat. 701; May 24, 1949, C. 139 §
13 8(C), 63 Stat. 90; Pub. L. 101-647, Title XII, § 1205(C), Nov.
14 29, 1990, 104 Stat.)
15

16 This Court is located in the District of Columbia,
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18 and the Respondent(s)' had surreptitiously, committed
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20 a crime against its' lawful writ, eccentrically, to
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22 prejudice the outcome of the lawful writ, etc, and
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24 warranting the Power of Court, provoked by the
25
26 Petitioner, as a matter of right, and for the grant-
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28 ing of the Petition for Rehearing, herein.

1 The Petitioner, further, inquired, about the un-
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3 thinkingly, Act, of the Respondents' Counsel of Re-
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5 cord, to whether or not, the denial of the Petitioner's
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7 Petition for a writ of Certiorari, will count as a
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9 strike against him, pursuant to the Prison Litigation
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11 Reform Act (PLRA). Citing, in, *Byrd v. Shannon*, 715,
12
13 F.3d 117, 126-27 (3d Cir. 2013) (dismissal of prisoners
14
15 appeal of adverse summary judgment because it was
16
17 "without merit" did not constitute strike)

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19 See, also, in, Section 402, of the Title, here, in perti-
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21 nence to the Rehearing, stated that, "Such fine shall
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23 be paid to the United States or to the Complainant
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25 or other party injured by the act constituting the
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27 Contempt. . . , but in no case shall the fine to be paid,
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1 to the United States exceed, in case the accused is a
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3 natural person, the sum of \$1,000, nor shall such imp-
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5 risonment exceed the term of six months."

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7 Axiomatically, the Respondent(s)' Counsel of Record
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9 is, Joseph J. Branco, and liable to the Act, accused
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11 to a natural person. And, this Court should enforce
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13 same, at its discretion, most respectfully, at-law.
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16 11. Double Jeopardy, U.S. Const. Amend. 5.

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18 Petitioner, alleges that, an "Intervening Circumstan-
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20 ces, of substantial or controlling effect or to other gra-
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22 unds not previously presented," exist as to the Petition-
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24 er's Immigration status.
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26 Petitioner, faces double jeopardy, each day, in
27
28 Prison, and in violation to his Fifth Amendment, due

process, right, because, the 'due process clauses are designed to protect the individual against arbitrary government action. The Petitioner, was multiply, punished for the same offense, when the Respondent(s) arrested him, after, being subjected to both a criminal punishment and a civil sanction for the same offense. And, which statutory scheme was so punitive either in purpose and effect as to transform what was clearly intended as a civil remedy into a criminal penalty.

Because, Petitioner was ordered removed by an Immigration Judge on, October 4, 2004, as a civil sanction, following his State's Conviction and Sentence and Punishment on, May 9, 2003, the Petitioner

right to the Protection Clause of the Fifth Amendment
was inherently, and unambiguously, attacked by the
Respondent(s), to suffice, an intervening factor, not
previously presented. By far, to his Commitment to
imprisonment by a Court Order. This Court should
Sua Sponte grant this Petition to restore, the Petition-
er's Procedural Due Process, Right, deprived by the Resp-
ondent without due process of law.

See, 45 GEO. L.J. ANN. REV. CRIM. PROC 526 (20-
16), Types of Proceedings, stating that;

"Double jeopardy does not prevent a defendant
from being subjected to both a Criminal punish-
ment and a Civil Sanction for the Same Off-
ense; rather, it "protects only against the imposi-
tion of multiple Criminal punishments for the same
Offense". Whether a Sanction is civil or Criminal
is "a matter of statutory Construction," and de-
pends on: (i) whether the legislature intended

1 "expressly or impliedly," to establish a civil
2 or criminal penalty; and (2) "whether the
3 Statutory Scheme was so punitive either
4 in purpose or effect" as to transform what
5 was clearly intended as a civil remedy
6 into a criminal penalty." "

7
8 See, in, Seale V INS 323 F.3d 150, 159-60 (1st Cir.
9
10 2003) (no double jeopardy bar to deportation proceeding
11
12 after conviction for assault because deportation civil.)

13
14 Petitioner, contends that, notwithstanding the Order
15
16 of Removal, issued in his Civil Sanction, as Remedy,
17
18 the rearresting by the government and imprisonment
19
20 is clearly a Criminal Penalty that is Confirmed in the
21

22 Seven factors, relevant to the determination of whether
23
24 an act is penal in character. See, (2) "whether it has
25
26 historically been regarded as a punishment" (Citing, in,
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28 Hudson V. U.S., 522 U.S. 93, 99 (1997)). (Internal citation omitted)

1 Therefore, a plausible, 42 U.S.C. § 1983, Claim for
2
3 Relief, of exorbitant, to the expounded, Double Jeopardy,
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5 parallel, to Seale's supra, for the punitive Criminal
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7 punishment, ordered by the Court, at the temerity
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9 of the arrest of the Petitioner.
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11 Accordingly, the Petition for Rehearing, should
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13 be granted, for these Grounds, mentioned, herein, at
14
15 law.
16

17 Respectfully submitted,
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19 Cecilia Obeabuchi
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21 Date: 5/14/19
22

23 Enclosures: February 13, 2019; April 15, 2019
24

25 Scott S. Harris, Clerk, Clayton Higgins, Case Analyst,
26
27 as, Evidence of Mootness
28

CERTIFICATE OF PARTY UNREPRESENTED BY COUNSEL

The Petitioner, certifies that, the foregoing, Petition is submitted under the Word Limits, not exceeding, 3,000, as required, in, Rule 33.1(g), (xiii), and; that the Petition For Rehearing, stated, Grounds, briefly and distinctly, that are limited to intervening Circumstances of Substantial or Controlling effect or to, other Substantial grounds not previously presented.

The Petitioner, further, certifies that, the Petition for Rehearing is presented in-good faith and not for delay, and declares, in-compliance with 28 U.S.C. § 174b.

Cseula. (Ibeabuchi.)
Party unrepresented by Counsel

