

APR 29 2019

OFFICE OF THE CLERK

No. 18-7987

IN THE
SUPREME COURT OF THE UNITED STATES

CHARLES, IKEMEFULA IBEABUCHI - PETITIONER

VS

PAUL PENZONE, ET AL - RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO THE

UNITED STATES COURT OF APPEALS...NINTH CIRCUIT

ON PETITION FOR A REHEARING, PURSUANT

TO RULE 44.6, OF THIS COURT OF MAY 7, 2019.

(IKEMEFULA IBEABUCHI, CHARLES)

(ADC NO. 177007, P.O. Box 8400)

(Florence, Arizona, 85132-8400)

(Telephone Number: N/A)

GROUNDS OF PETITION

1. 18 U.S.C. ss. 401; Power of Court.

"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. 2, 2002, 116 Stat. 1805.)

This Court, on, April 15, 2019, denied the foregoing, Petition for a Writ of Certiorari, as a matter of law.

But, it, invariably, did not adequately, enforce its,

Power, against the Respondent(s)' willful disobedience

or resistance of this Court's, lawful writ and Process

therein.

The Respondent(s), Contumaciously disobeyed or

1 resisted the Command, Order, rule or decree of this
2
3 Court, dated on, February 15, 2019, or as received
4
5 by the Petitioner, Sua Sponte, instructing the Respon-
6
7 dent(s), to, "SEND A COPY OF THIS FORM TO PETITION-
8
9 ER'S COUNSEL OR TO PETITIONER IF PRO SE. PLEASE
10
11 INDICATE BELOW THE NAME(S) OF THE RECIPIENT(S)
12
13 OF A COPY OF THIS FORM. NO ADDITIONAL CERTIFI-
14
15 CATE OF SERVICE IS REQUIRED." (See, WAIVER, Su-
16
17 preme Court of the United States No. 18-7987 as,
18
19 Proof, depended, on.)
20

21 Petitioner, stated in his, Rehearing, received of this
22
23 Court on, May 6, 2019, that, "uptil date, the Petitioner
24
25 was not accorded the Merit of his docketed Petition,
26
27 No. 18-7987, which is, the Copy of Waiver to Respon-
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1 dent(s)' intent to file a Response, in the Matter."

2
3 The Petitioner, further asked the Court, qua, in
4
5 e.g., Byrd V. Shannon, 715 F.3d 117, 126-27 (3d Cir. 2013)
6
7 (dismissal of Prisoners appeal of adverse summary
8
9 judgment because it was "without merit" did not
10
11 constitute strike), whether or not the denial of the
12
13 Petition, herein, which is without the Compliance of
14
15 the Respondent(s), will count as a strike to the
16
17 Pro se, Petitioner, herein, at-law?

18
19 Accordingly, the Law of the Case, Doctrine, herein,
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21 is affected by the Disobedience, per se, of the Respon-
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23 dent(s) towards the Waiver of Response, Notice of this
24
25 Court. (Citing, 18 U.S.C. ss. 402; Contempts Constitu-
26
27 ting Crimes.) And, should had taken precedent, be-
28

fore, the denial of this Petition of this Court.

The Act of the Respondents' in, willfully, disobeying,
any lawful writ, process, Order, rule, decree, or Command
of this Court, of issued, February 15, 2019, was charac-
terized, as a Criminal Offense in, § 402, of this Statute,
te, and is punishable, at the discretion of this Court.

II. DOUBLE JEOPARDY, U.S. Const. Amend. 5.

Petitioner's, Arrest, by the Respondents) was false
and wrongful, because, the types of proceedings,
undergone in the Petitioner's, Case were a Criminal
Punishment, Ordered on, May 9, 2003, in, CR1999-
095310, and a Civil Sanction for the same Offense
by Immigration Judge Ellen Weiss, on, October 4,
2004, for, Order of Removal, as, A70-675-261, at-law.

1 See, 45 GEO. L.J. ANN-REV. CRIM-PROC. 526 (2016)

2
3 Types of Proceedings: Stating that, "Double jeopardy
4 does not prevent a defendant from being subjected
5 to both a Criminal punishment and a Civil Sanction
6 for the same offense, rather, it "protects only aga-
7 inst the imposition of multiple Criminal punishments
8 for the same offense." Whether a Sanction is Civil
9 or Criminal is "a matter of Statutory Construction"
10 and depends on: (1) Whether the legislature intended
11 "expressly or impliedly," to establish a Civil or Criminal
12 penalty; and (2) "Whether the statutory Scheme was
13 so punitive either in purpose or effect" as to "trans-
14 form what was clearly intended as a Civil remedy
15 into a Criminal penalty.""

16
17 After, the Petitioner's, Deportation, Matters, the Fed-
18 eral Government, on, April 1, 2015, approved the Re-
19 entry to this Country, to the Petitioner, and Subseq-
20 uently, granted, Citizenship of the United States to
21 the Petitioner, on, March 23, 2016, at-law.
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26

27 The Respondent(s) arrested the Petitioner, on,
28

1 April 7, 2016, for Probation violation of his Criminal
2
3 Proceeding, detained, and released him; re-arrested
4
5 him on, June 6, 2016, on a hearing on that Probation
6
7 Violation, Matter, then, released, him, on that, and re-
8
9 arrested on, October 5, 2016, while he were on App-
10
11 eal, on the Matter, and then, upon a Court Order
12
13 maliciously, Committed him to imprisonment, to a
14
15 term of 3.5 years, all under the same Criminal
16
17 offense, punished in CR1999-095310, and Sanction-
18
19 ed, under Civil Penalty, by Deportation, therein.
20

21 See, e.g., Seale v. INS, 323 F.3d 150, 159-60 (1st
22
23 Cir. 2003) (no double jeopardy bar to deportation pro-
24
25 ceeding after Conviction for assault because deport-
26
27 ation Civil). Therefore, Petitioner, stated a Cogniza-
28

ble § 1983, Claim, herein, when he stated that his
arrest, by the Respondent(s) was a, Wrongful Arrest,
under, Types of Proceedings, herein, at-law.

See, also, in, McClish V. Nugent, 483 F.3d 1231,
1233 (11th Cir. 2007), for a Cognizable § 1983 Claim,
including, in, Wilson V Johnson, 535 F.3d 262, 267-
68 (4th Cir. 2008)

Therefore, this Court should grant this Petition
for Rehearing on these two (2) Grounds.

Respectfully submitted,

Cecilia Obeabuchi

Date: 5/14/19

Enclosures: Evidence of Petition, The February
15, 2019, Notice, and, the April 15, 2019, Clerk's Letter.

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" as required in, Rule 44.6, and declares, in compliance with 28 U.S.C. ss. 1746.

Geula Abeabuchi
Party unrepresented by Counsel.