

18-7991

ORIGINAL

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OFFICE OF THE CLERK
SUPREME COURT, U.S.

No.

IN THE
Supreme Court of the United States

George E. Kersey, individually and on behalf of all others similarly situated,

Petitioner,

v.

DONALD J. TRUMP,

**On Petition for a Writ of Certiorari
To the United States Court of Appeals for the First Circuit**

PETITION FOR A WRIT OF CERTIORARI

George E. Kersey
Petitioner
P.O Box 1073t
Framingham, MA 01701
(518) 966-9690

Dated: November 26, 2018

QUESTIONS PRESENTED

1. Whether the Court of Appeals properly affirmed the District Court's December 18, 2017 decisions by which Petitioner's complaint was dismissed
2. Whether the Petitioner's complaint in the District Court had merit.
3. Whether Petitioner was entitled to proceed in forma pauperis in the District Court.
4. Whether Petitioner was entitled to proceed in forma pauperis in the Court of Appeals.
5. Whether the District Court correctly certified that the appeal was not taken in good faith.
6. Whether the District Court's incorrect certification that the appeal was not taken in good faith is justified by 28 U.S.C. § 1915(a)(3).
7. Whether 28 U.S.C. § 1915(a)(3) only applies to appeals by prisoners
8. Whether Rule 24 of the Court of Appeals permits appeals in forma pauperis
9. Whether good faith is lacking in the appeal.
- 10 Whether appellant has identified any non-frivolous argument on appeal.
11. Whether *Coppedge v. United States*, 369 U.S. 438, 445 (1962), which permitted an appeal by a prisoner, is authority for denying an appeal by a non-prisoner
12. Whether Petitioner's request to proceed IFP on appeal should have been denied.
- 13 Whether the district court's December 18, 2017 memorandum and order, of dismissal of the complaint was proper.
14. Whether a substantial question is presented on appeal, and the judgment of the district court should be summarily reversed. See 1st Cir. R. 27.0(c).
15. Whether The district court was not required to issue summonses until after it screened the complaint and amended complaint under 28 U.S.C. § 1915(e)(2) which provides: *Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that (A) the allegation of poverty is untrue; or (B) the action or appeal (I) is frivolous or malicious; (II) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief.*
16. Whether even though no summonses ever issued, the clerk was required to issue the summons under the Rules. See Fed.R.Civ.P. 12(a)
17. Whether the Court properly failed to grant sanctions to Plaintiff

PARTIES TO THE PROCEEDINGS BELOW

George Kersey,
Plaintiff-Appellant,

DONALD J. TRUMP,

Defendant, Appellee.

(named “Defendant-Appellee by the Court of Appeals)

Originally named Defendant,

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DECISION OF THE UNITED STATES COURT OF APPEALS

The request to proceed IFP on appeal was denied improperly since Petitioner had been
given the opportunity to proceed IFP in the District Court

TABLE OF AUTHORITIES

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PETITION FOR A WRIT OF CERTIORARI

Petitioner George Kersey respectfully Petitions for a Writ of Certiorari to review the judgments of the United States Court of Appeals for the First Circuit and the United States District Court for the District of Massachusetts.

OPINIONS BELOW

The Opinion of the United States Court of Appeals for the First Circuit, Entered: September 4, 2018 is reproduced in the Appendix to this Petition for Certiorari.

RELEVANT CONSTITUTIONAL PROVISIONS

This action is brought pursuant to the 10th Amendment of the United States Constitution which guarantees all rights to the people (and the States) not granted to the Federal government. The People have the right to elect governing officials and to remove them from office if they display incompetence by continually failing to be truthful or have not been properly elected

U.S. Constitution, Amendments 5 and 7. The Fifth Amendment to the U.S. Constitution provides for due process and the Seventh Amendment provides for Trial by Jury.

JURISDICTION

This Court has jurisdiction over the judgments of the United States Court of Appeals for the First Circuit and the United States District Court for the District of Massachusetts.

STATEMENT

This case presents the fundamental question of whether a court can deprive litigants of their right to trial by jury where there are disputed issues of fact by wrongly asserting that the Case is frivolous and seeking to prevent, and preventing, a pauperis appeal by asserting that the appeal was not taken in good faith . It is for the jury to decide whether a case is frivolous

Instead of issuing a summons as required by Rule 4, the District Court dismissed the Complaint. Since the case has named Donald Trump *as an individual* Defendant, a summons should have been issued and answered.

Statement on the Nature of the Case, The Course of Proceedings and Disposition in the Court Below

This case involves a fundamental QUESTION of whether a case can be dismissed for alleged failures of fact which have not been assessed by the jury that has been demanded pursuant to the Constitution.

In addition for the District Court to rule against Petitioner, it must have assumed jurisdiction, so that pauper status was granted in the District Court, and if the Petitioner had pauper status in the District Court, he should have Pauper Status in the appeals Court.

Moreover if the District Court does not have jurisdiction how can the Court of Appeals make rulings against Appellant, except on the issue of Jurisdiction

Statement of the Facts Relevant to the Issues

The Appellant sought and was granted Pauper Status in the District Court That should have resolved any question about jurisdiction because is not seen how a litigant can have pauper status for a case that does not have jurisdiction. Appellant's original complaint recited jurisdiction

Argument

A. THE TRIAL COURT IMPROPERLY DISMISSED THE CASE WHICH STATES EIGHT CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF Defendant, as an individual is unqualified to advise Federal Officials because he appears to have a Manic Depressive (Bi-Polar) Condition, which can be verified by psychiatric examination, (ON BEHALF OF PLAINTIFF AND THE CLASS pursuant to the 10th Amendment)

SECOND CLAIM FOR RELIEF Defendant is partly responsible for death of the victim in the Charlottesville, VA, massacres because of way Defendant has been conducting himself causing Fascists, Nazis, and KKK members to believe that they could pursue their agenda of violent confrontation without adverse consequences (ON BEHALF OF PLAINTIFF AND THE CLASS)

THIRD CLAIM FOR RELIEF Defendant is partly responsible for injuries to victims in the Charlottesville, VA, massacres because of he way Defendant has conducted himself, including his numerous "tweets" which not only appear to show bi-polar behavior but also suggest anti-Constitutional behavior (ON BEHALF OF PLAINTIFF AND THE CLASS) .

FOURTH CLAIM FOR RELIEF Defendant improperly seeks to turn the Republican Party into an unconstitutional organization that promotes bigotry and violence (ON BEHALF OF PLAINTIFF AND THE CLASS)

SIXTH CLAIM FOR RELIEF UNJUST ENRICHMENT/MONEY HAD AND RECEIVED by failing to pay STATUTORY share of taxes (ON BEHALF OF PLAINTIFF AND THE CLASS)

SEVENTH CLAIM FOR RELIEF Acting contrary to established scientific finding, e.g. opposing climate change (ON BEHALF OF PLAINTIFF AND THE CLASS)

EIGHT CLAIM FOR RELIEF Improperly Elected by Electors and not by the popular vote of the People. (ON BEHALF OF PLAINTIFF AND THE CLASS)

In addition, the election by the Electoral College is invalid since the power of the electoral college to elect was terminated by the Union victory in the Civil War. The electoral college had been established to protect the rights of slave owners by counting Negroes as providing only partial votes. The Civil War abolished this provision since Negroes were given full voting rights

B. THE COURT OF APPEALS UPHELD THE IMPROPER DISMISSAL

The Court of Appeals upheld the improper dismissal on the ground that Petitioner could not proceed forma pauperis ("IFP"). The court, in reliance on 28 USC 1915 **improperly** certified that the appeal was not taken in good faith.. The Appeals court said: The district court certified that the appeal was not taken in good faith. See 28 U.S.C. § 1915(a)(3). We agree that good faith is lacking, and appellant has not identified any non-frivolous argument on appeal. See Coppedge v. United States, 369 U.S. 438,445 (1962). Thus, the request to proceed IFP on appeal is denied.

Moreover, after careful review of the record, we conclude, substantially for: the reasons stated by the district court in its December 18, 2017 memorandum and order, that dismissal of the complaint was proper. Therefore, no substantial question is presented in this appeal, and the judgment of the district court is summarily affirmed. See 1st Cir. R. 27.0(c).

C. THE TRIAL COURT AND THE COURT OF APPEALS FAILED TO GRANT SANCTIONS

In view of the improper actions against Petitioner, as detailed above, Sanction should have been awarded to Petitioner

CONCLUSION

The case should be returned to the District Court for Discovery and a Seventh Amendment Jury Trial on the questions raised, to be decided by the jury that Kersey has claimed pursuant to the Constitution

Respectfully submitted,

/s/ George Kersey
George Kersey
Petitioner
P.O. Box 1073
Framingham, MA 01701
(518) 966-9690

Dated: October 2, 2018

CERIFICATE OF SERVICE

I, hereby certify that a true copy of the above document will be served upon Donald J. Trump by first class mail.

George E. Kersey
George Kersey