

18-8178  
No. \_\_\_\_\_

ORIGINAL

IN THE  
SUPREME COURT OF THE UNITED STATES

Charles E. Justise Sr., Petitioner

v.

David Liebel, Respondents, et al, Respondents.

FILED  
DEC 17 2018

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

ON PETITION FOR A WRIT OF CERTIORARI TO

THE SUPREME COURT OF INDIANA

PETITION FOR WRIT OF CERTIORARI

Charles E. Justise Sr.  
DOC # 921730  
One Park Row  
Michigan City, IN 46360

RECEIVED  
FEB 26 2019

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SUPREME COURT, U.S.

## **QUESTIONS PRESENTED**

1. Whether *Federal Rule of Civil Procedure* 18 allows a case with unrelated claims to be removed from state court to federal court, and, if so, the exceptions to permit such a move.

2. Whether the Honorable Tonya Walton Pratt, and the Honorable Joseph S. Van Bokkelen, U.S. District Court Judges, were correct in stating that Justice can only proceed against one defendant in federal court, and that the entire case was not removed to federal court, or whether the Indiana Trial Court, the Honorable Tim Oates, Judge, and the Court of Appeal of Indiana were correct in stating that the case was removed to federal court.

### **List of Parties**

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:

1. David Liebel, Religious Services Coordinator.
2. Eva Talley Sanders, Deputy Jail Commander, Marion County Jail.
3. Jerry Huston, supervisor of the law library at the Wabash Valley Correctional Facility.
4. Karen Richards, senior supervisor of all law libraries at the Wabash Valley Correctional Facility.
5. Marvin Haggler, a sergeant at the Marion County Jail.
6. Michelle Metcalf, mailroom worker at the Indiana State Prison.

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Appendix A Decision of Court of Appeals of Indiana.

Appendix B Decision of State Trial Court.

Appendix C Decision of State Supreme Court denying Review.

Appendix D Decision of federal court stating claims were never removed to federal court, and that Justise was free to pursue claims in state court.

### **Table of Authorities**

*Singh v. Gegare*, 651 Fed. Appx 551, 553 (7<sup>th</sup> Cir. 2016).

### **Opinions Below**

None of the cases in the Appendices have been published.

### **Jurisdiction**

This Court has jurisdiction to hear this cause because the Indiana Supreme Court denied hearing this case on September 20<sup>th</sup>, 2018.

### **Court Rule Provisions**

This case is centered on *Federal Rule of Civil Procedure* 18.

### **Statement of the Case**

Justise filed this case in the Marion Superior Court, and the complaint contained unrelated claims. Some of the defendants filed for removal of the case to federal court. The Honorable Tonya Walton-Pratt concluded that the complaint can only proceed against one defendant, and instructed Justise to amend the complaint for only one defendant. Justise requested the remaining defendant's be remanded back to state court. Judge Pratt held that the remaining defendant was never removed to federal court, and that Justise was free to pursue the remaining defendants in state court.

The Marion Superior Court, the Honorable Timothy Oakes, held that the entire case was removed to federal court, and that Justise could not proceed with his case. Justise filed an appeal to the Indiana Court of Appeals. The Appellate Court acknowledged Judge Pratt decision, but

held that the entire case was indeed transferred to Judge Pratt courtroom, despite Judge Pratt concluding the opposite, that the case was not transferred to her court.

The Indiana Court of Appeals further concluded that Justise should have appealed Judge Pratt's decision, even though Justise did not receive an adverse decision.

Justise filed for Transfer to the Indiana Supreme Court, and the Court declined to hear the case.

### **Reasons for Granting the Petition**

The defendants have used FRCP 18 as a bar to litigating unrelated claims in state court. Every complaint filed in state court with unrelated claims, the defendants can simply remove the complaint to federal court, forcing the federal courts to endure a total of 6 more complaints from Justise. If Justise files another state court complaint with unrelated claims, these defendants will simply move to remove the case to federal court, now knowing full well that the rest of the complaint will not be litigated, and Justise will have to keep filing complaints until all defendants have been exhausted. That would be a total of six complaints.

In this complaint, Justise filed unrelated claims in state court. One of the claims were removed to federal court. The federal court gave permission to pursue the remaining claims in the state court. The defendants argued to the state court that *all* of the claims were removed to federal court, including the unrelated claims. The state court agreed, that all claims were removed to federal court, and sis not allow the remaining claims to proceed. This is despite the federal court clearly stating that the remaining claims were never removed to federal court. The remaining claims were thus never allowed to proceed.

1. Justise is thus seeking clarification of whether FRCP 18 can be abused to force litigants to file several different lawsuits in federal court, or whether the state courts can hear the

remaining claims that were never removed to federal court. (This is according to federal Judge Tonya Walton-Pratt)

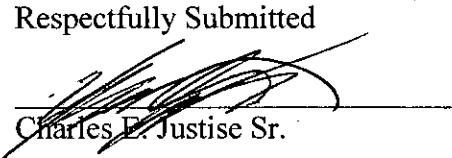
2. Justise is also needing clarification of whether FRCP 18 prevents removal to federal court a complaint with unrelated claims, as this complaint was.

This Court should grant review of this case to determine these issues as the Indiana Trial Court and Court of Appeals have both determined that all the unrelated claims were removed to federal court, and the federal court has determined that the claims were not removed to federal court, and that Justise was free to pursue these claims in federal court. The Seventh Circuit has held: "Unrelated claims against unrelated defendants cannot be brought in the same complaint. *Singh v. Gegare*, 651 Fed. Appx 551, 553 (7<sup>th</sup> Cir. 2016).

### **Conclusion**

Wherefore, since this case involves issues of importance, in that, allowing claims remaining in state court to proceed in state court, and thus eliminating the need to file multiple complaints in federal court, Justise respectfully request this Court grant this writ of certiorari, and grant all other relief just and proper in the premises.

Respectfully Submitted



Charles E. Justise Sr.